



California Regulatory Notice Register

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Rural Counties' Environmental Services Joint Powers Authority

Rural Health Joint Powers Authority

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The *California Regulatory Notice Register* is an official state publication of the Office of Administrative Law containing notices of proposed regulatory actions by state regulatory agencies to adopt, amend or repeal regulations contained in the California Code of Regulations. The effective period of a notice of proposed regulatory action by a state agency in the *California Regulatory Notice Register* shall not exceed one year [Government Code § 11346.4(b)]. It is suggested, therefore, that issues of the *California Regulatory Notice Register* be retained for a minimum of 18 months.

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PROPOSED ACTION ON REGULATIONS

Information contained in this document is published as received from agencies and is not edited by Thomson West.

TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission, pursuant to the authority vested in it by Sections 82011, 87303 and 87304 of the Government Code to review proposed conflict of interest codes, will review the proposed/amended conflict of interest code of the following:

KAWEAH DELTA WATER CONSERVATION DISTRICT

A written comment period has been established commencing on **September 29, 2006** and closing on **November 13, 2006**. Written comments should be directed to the Fair Political Practices Commission, Attention Tara Stock, 428 J Street, Suite 620, Sacramento, California 95814.

At the end of the 45-day comment period, the proposed conflict of interest code will be submitted to the Commission's Executive Director for his review; unless any interested person or his or her duly authorized requests, no later than 15 days prior to the close of the written comment period, a public hearing before the full Commission. If a public hearing is requested, the proposed code will be submitted to the Commission for review.

The Executive Director or the Commission will review the above-referenced conflict of interest code, proposed pursuant to Government Code Section 87300, which designate, pursuant to Government Code Section 87302, employees who must disclose certain investments, interests in real property and income.

The Executive Director or the Commission, upon his or its own motion or at the request of any interested person, will approve, or revise and approve, or return the proposed code to the agency for revision and re-submission within 60 days without further notice.

Any interested person may present statements, arguments or comments, in writing to the Executive Director of the Commission, relative to review of the proposed conflict of interest code. Any written comments

must be received no later than **November 13, 2006**. If a public hearing is to be held, oral comments may be presented to the Commission at the hearing.

COST TO LOCAL AGENCIES

There shall be no reimbursement for any new or increased costs to local government which may result from compliance with these codes because these are not new programs mandated on local agencies by the codes since the requirements described herein were mandated by the Political Reform Act of 1974. Therefore, they are not "costs mandated by the state" as defined in Government Code Section 17514.

EFFECT ON HOUSING COSTS AND BUSINESSES

Compliance with the codes has no potential effect on housing costs or on private persons, businesses or small businesses.

AUTHORITY

Government Code Sections 82011, 87303 and 87304 provide that the Fair Political Practices Commission as the code reviewing body for the above conflict of interest codes shall approve codes as submitted, revise the proposed code and approve it as revised, or return the proposed code for revision and re-submission.

REFERENCE

Government Code Sections 87300 and 87306 provide that agencies shall adopt and promulgate conflict of interest codes pursuant to the Political Reform Act and amend their codes when change is necessitated by changed circumstances.

CONTACT

Any inquiries concerning the proposed conflict of interest code should be made to Tara Stock, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 322-5660.

AVAILABILITY OF PROPOSED CONFLICT OF INTEREST CODES

Copies of the proposed conflict of interest codes may be obtained from the Commission offices or the respective agency. Requests for copies from the Commission should be made to Tara Stock, Fair Political Practices

Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 322-5660.

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CONFLICT OF INTEREST CODES

ADOPTION

MULTI-COUNTY: Rural Counties' Environmental Services Joint Powers Authority Rural Health Joint Powers Authority

AMENDMENT

MULTI-COUNTY: California Rural Home Mortgage Finance Authority Homebuyers Fund California Local Government Finance Authority

A written comment period has been established commencing on September 29, 2006, and closing on November 13, 2006. Written comments should be directed to the Fair Political Practices Commission, Attention Kevin S. Moen, PhD, 428 J Street, Suite 620, Sacramento, California 95814.

At the end of the 45-day comment period, the proposed conflict of interest code(s) will be submitted to the Commission's Executive Director for his review, unless any interested person or his or her duly authorized requests, no later than 15 days prior to the close of the written comment period, a public hearing before the full Commission. If a public hearing is requested, the proposed code(s) will be submitted to the Commission for review.

The Executive Director or the Commission will review the above-referenced conflict of interest code(s), proposed pursuant to Government Code Section 87300, which designate, pursuant to Government Code Section 87302, employees who must disclose certain investments, interests in real property and income.

The Executive Director or the Commission, upon his or its own motion or at the request of any interested person, will approve, or revise and approve, or return the

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Any interested person may present statements, arguments or comments, in writing to the Executive Director of the Commission, relative to review of the proposed conflict of interest code(s). Any written comments must be received no later than November 13, 2006. If a public hearing is to be held, oral comments may be presented to the Commission at the hearing.

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There shall be no reimbursement for any new or increased costs to local government which may result from compliance with these codes because these are not new programs mandated on local agencies by the codes since the requirements described herein were mandated by the Political Reform Act of 1974. Therefore, they are not "costs mandated by the state" as defined in Government Code Section 17514.

EFFECT ON HOUSING COSTS AND BUSINESSES

Compliance with the codes has no potential effect on housing costs or on private persons, businesses or small businesses.

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Government Code Sections 82011, 87303 and 87304 provide that the Fair Political Practices Commission as the code reviewing body for the above conflict of interest code(s) shall approve codes as submitted, revise the proposed code and approve it as revised, or return the proposed code for revision and re-submission.

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Government Code Sections 87300 and 87306 provide that agencies shall adopt and promulgate conflict of interest codes pursuant to the Political Reform Act and amend their codes when change is necessitated by changed circumstances.

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CONFLICT OF INTEREST CODES

ADOPTION

MULTI-COUNTY: San Timoteo Watershed
Management Authority

A written comment period has been established commencing on September 29, 2006, and closing on November 13, 2006. Written comments should be directed to the Fair Political Practices Commission, Attention Kevin S. Moen, PhD, 428 J Street, Suite 620, Sacramento, California 95814.

At the end of the 45-day comment period, the proposed conflict of interest code(s) will be submitted to the Commission's Executive Director for his review, unless any interested person or his or her duly authorized requests, no later than 15 days prior to the close of the written comment period, a public hearing before the full Commission. If a public hearing is requested, the proposed code(s) will be submitted to the Commission for review.

The Executive Director or the Commission will review the above-referenced conflict of interest code(s), proposed pursuant to Government Code Section 87300, which designate, pursuant to Government Code Section 87302, employees who must disclose certain investments, interests in real property and income.

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CONFLICT OF INTEREST CODES

ADOPTION

STATE AGENCY: Mental Health Services
Oversight and Accountability
Commission

A written comment period has been established commencing on September 29, 2006, and closing on November 13, 2006. Written comments should be directed to the Fair Political Practices Commission, Attention Kevin S. Moen, PhD, 428 J Street, Suite 620, Sacramento, California 95814.

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NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission, pursuant to the authority vested in it by Sections 82011, 87303 and 87304 of the Government Code to review proposed conflict of interest codes, will review the proposed/amended conflict of interest code of the following:

SALTON SEA AUTHORITY

A written comment period has been established commencing on **September 29, 2006** and closing on **November 13, 2006**. Written comments should be directed to the Fair Political Practices Commission, Attention Tara Stock, 428 J Street, Suite 620, Sacramento, California 95814.

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CONFLICT OF INTEREST CODES

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**TITLE 8. OCCUPATIONAL SAFETY
AND HEALTH STANDARDS BOARD**

NOTICE OF PUBLIC MEETING/PUBLIC
HEARING/BUSINESS MEETING OF THE
OCCUPATIONAL SAFETY AND HEALTH
STANDARDS BOARD AND NOTICE OF
PROPOSED CHANGES TO TITLE 8 OF THE
CALIFORNIA CODE OF REGULATIONS

Pursuant to Government Code Section 11346.4 and the provisions of Labor Code Sections 142.1, 142.2, 142.3, 142.4, and 144.6, the Occupational Safety and Health Standards Board of the State of California has set the time and place for a Public Meeting, Public Hearing, and Business Meeting:

PUBLIC MEETING: On **November 16, 2006**, at 10:00 a.m. in the Council Chambers of the Glendale City Hall, 613 East Broadway, Glendale, California 91026-4308.

At the Public Meeting, the Board will make time available to receive comments or proposals from interested persons on any item concerning occupational safety and health.

PUBLIC HEARING: On **November 16, 2006**, following the Public Meeting in the Council Chambers of the Glendale City Hall, 613 East Broadway, Glendale, California 91026-4308.

At the Public Hearing, the Board will consider the public testimony on the proposed changes to occupational safety and health standards in Title 8 of the California Code of Regulations.

BUSINESS MEETING: On **November 16, 2006**, following the Public Hearing in the Council Chambers of the Glendale City Hall, 613 East Broadway, Glendale, California 91026-4308.

At the Business Meeting, the Board will conduct its monthly business.

DISABILITY ACCOMMODATION NOTICE

Disability accommodation is available upon request. Any person with a disability requiring an accommodation, auxiliary aid or service, or a modification of policies or procedures to ensure effective communication and access to the public hearings/meetings of the Occupational Safety and Health Standards Board should contact the Disability Accommodation Coordinator at (916) 274-5721 or the state-wide Disability Accommodation Coordinator at 1-866-326-1616 (toll free). The state-wide Coordinator can also be reached through the California Relay Service, by dialing 711 or 1-800-735-2929 (TTY) or 1-800-855-3000 (TTY-Spanish).

Accommodations can include modifications of policies or procedures or provision of auxiliary aids or services. Accommodations include, but are not limited to, an Assistive Listening System (ALS), a Computer-Aided Transcription System or Communication Access Realtime Translation (CART), a sign-language interpreter, documents in Braille, large print or on computer disk, and audio cassette recording. Accommodation requests should be made as soon as possible. Requests for an ALS or CART should be made no later than five (5) days before the hearing.

NOTICE OF PROPOSED CHANGES TO TITLE 8 OF THE CALIFORNIA CODE OF REGULATIONS BY THE OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

Notice is hereby given pursuant to Government Code Section 11346.4 and Labor Code Sections 142.1, 142.4 and 144.5, that the Occupational Safety and Health Standards Board pursuant to the authority granted by Labor Code Section 142.3, and to implement Labor Code Section 142.3, will consider the following proposed revisions to Title 8, General Industry Safety Orders of the California Code of Regulations, as indicated below, at its Public Hearing on **November 16, 2006**.

1. **TITLE 8:** **GENERAL INDUSTRY SAFETY ORDERS**
Chapter 4, Subchapter 7, Article 5
Section 3291 and
Article 6
Sections 3292, 3295, and 3296
Load Sustaining Devices Used in Window Cleaning and Building Maintenance Operations
2. **TITLE 8:** **GENERAL INDUSTRY SAFETY ORDERS**
Chapter 4, Subchapter 7, Article 69
Section 4543
Guarding of Meat Cutting Band Saw Blades

Descriptions of the proposed changes are as follows:

1. **TITLE 8:** **GENERAL INDUSTRY SAFETY ORDERS**
Chapter 4, Subchapter 7, Article 5
Section 3291 and
Article 6
Sections 3292, 3295, and 3296
Load Sustaining Devices Used in Window Cleaning and Building Maintenance Operations

INFORMATIVE DIGEST OF PROPOSED ACTION/POLICY STATEMENT OVERVIEW

The proposed amendments for this rulemaking action are in part related to the Occupational Safety and Health Standards Board Petition File No. 421 submitted by Mr. John "Eric" Pearce from Pearce Building Services. The Petitioner recommended a number of amendments related to the procedures, methods and time intervals for the testing of load sustaining devices used in window cleaning and building maintenance operations. The proposal contains amendments for Articles 5 and 6 of the General Industry Safety Orders that address provisions such as the inspection, testing, and record keeping

for building safety devices and equipment used in window cleaning and building maintenance operations.

The rulemaking also incorporates proposed amendments recommended by the Division of Occupational Safety and Health (Division) memorandum and Cal/OSHA Form 9, Request for New, or Change in Existing Safety Order dated May 18, 2005. The Division recommended amendments for Section 3291(f) regarding the strength of roof tie-back anchors for consistency with other standards. The Division further recommended language specifying limitations for the maximum size and assembled weight of portable davits¹ in proposed new Section 3295(c)(3)(G) consistent with the provisions outlined in current national consensus standards. The proposal was developed with the assistance of an advisory committee.

The references to Title 24 are proposed for deletion. Prior to September 30, 2002, the Board was mandated by Health and Safety Code Section 18943(b) to submit Title 8 building standards to the California Building Standards Commission for their approval and adoption into Title 24, the California Building Code.

Assembly Bill 3000 (Stats. 2002, c. 1124), which was signed by the Governor and filed with the Secretary of State on September 30, 2002, repealed Labor Code Section 142.6 and Health and Safety Code Section 18943(b), thus exempting the Board from the building standard requirements contained in these codes. The outdated references in the proposal to Title 24 and Section 18943(b) of the Health and Safety Code are unnecessary and proposed for deletion.

Section 3291. Special Design Considerations —

Permanent Roof Top Installations.

Section 3291(a)

Section 3291 contains provisions for the design of permanent roof top installations. Subsection (a), in part, requires that a civil or mechanical engineer registered in the State of California prepare calculations and/or plans substantiating the structural integrity of all facets of the complete installation, including the eyebrow sleeves, roof davit systems, roof outrigger beams, and roof tie-backs.

Section 3291(f)(1)

Subsection (f) addresses the design requirements for roof tie-backs. Existing subsection (f)(1) requires that every building constructed 3 stories or 36 feet or more in height shall have eyebolts or other permanent devices installed at the roof level for the purpose of securing or

tying back suspended scaffold hooks or clamps and safety lines. The advisory committee for this proposal determined that the term “eyebolt” was confusing and lacked clarity and that for consistency within Section 3291, should be replaced with the term “roof tie-back.” Deleting the term “eyebolt” would clarify that common eyebolts not engineered to the design specifications of these safety orders are not suitable for roof tie-back installation. Therefore, an amendment is proposed to delete the term “eyebolt” and replace it with “roof tie-backs.” A similar amendment is proposed in subsection (f)(1), Exception No. 2. The proposed amendments would have the effect of providing clarity to the standard.

Section 3291(f)(2)(A)

Existing subsection (f)(2)(A) provides that tie-backs shall be “drop forged eyebolts or other components of equivalent strength” having at least a 2-inch diameter closed eye. Existing Section 3291(a) requires that a civil or mechanical engineer design roof tie-backs so it is unnecessary to specify the design materials. Further, this proposal would delete the reference to “eyebolts” for the same rationale described for Section 3291(f)(1). An amendment is proposed to delete language that references drop forged eyebolts so that the standard states that “roof tie-backs” shall have at least a 2-inch inside diameter closed eye. The proposed amendment would have the effect of providing clarity to the standard.

Section 3291(f)(2)(C)

Existing Section 3291(f)(2)(C) requires that the assembly and anchorage provisions for roof tie-backs be adequate to sustain a 5400 pound (tensile) load applied in any direction. An amendment to provide clarity is proposed to delete the reference to “tensile” loads. The word “tensile” can mean testing in one direction at the longitudinal axis, and that conflicts with the provisions in this subsection that require strength factors for a load applied in any direction. An additional amendment would change the load sustaining requirements for roof tie-backs from 5400 pounds to 5000 pounds. According to the Division, the origin of the 5400-pound design load is related to the use of 3/4-inch manila rope which is no longer used in window cleaning and building maintenance work. This amendment would have the effect of making the strength factors for roof tie-backs consistent with the 5000-pound strength requirement for anchors used in fall protection systems that are referenced in federal OSHA standards and national consensus standards such as ANSI/International Window Cleaning Association (IWCA) I-14.1-2001 standard for “Window Cleaning Safety.”

Section 3291(f)(3)

Section 3291(f)(3) states that roof tie-backs or other devices shall not be installed in a wood roof framing

¹ A davit is a device used singularly or in pairs, for suspending a powered platform from work, storage and rigging locations on the building being serviced. A portable davit is designed and dedicated for a specific building or roof area and is capable of being moved manually within a dedicated work area.

system. Section 3291(a) requires a civil or mechanical engineer to substantiate the structural integrity of roof tie-backs which are required on every building 3 stories or 36 feet in height with several exceptions. However, at the advisory committee meeting, members stated that Section 3291(f)(3) lacked clarity and one might infer from the wording that roof tie-backs are not to be installed in any wood framed building regardless of the building height. Therefore, an amendment is proposed to delete Section 3291(f)(3). In Section 3291(a), it is the engineer's responsibility to ensure that roof tie-backs for wood frame buildings are attached and installed to adequate and substantial structural members of a building. The amendment would have the effect of providing clarity to the standard.

Section 3291(f)(4)

Existing Section 3291(f)(4) is renumbered in the proposal as Section 3291(f)(3) and a non-substantive amendment deletes an obsolete reference to the California Building Code, Title 24, Part 2 for the same rationale described for Section 3291(a).

Section 3292. General. (General requirements for Article 6. Powered Platforms and Equipment for Building Maintenance)

Section 3292(a) provides the scope statement for Article 6 and, in part, provides that building maintenance includes, but is not limited to such tasks as window cleaning, caulking, metal polishing and reglazing.

Section 3292(c)(5)

Section 3292(c) "Assurance," in part, specifies the building owner's requirements to provide in writing that building maintenance installations have been inspected, tested and maintained in accordance with the applicable provisions in Article 6. Existing Section 3292(c)(5) provides that the employer shall not permit employees to use an installation prior to receiving assurance from the building owner that the installation meets the requirements contained in subsections (c)(1), (c)(3) and (c)(4) of Section 3292. Section 3292(c)(1) and (c)(3) require the building owner to provide the employer "written" assurance that installations are in compliance with the applicable provisions in Article 6. An editorial amendment is proposed for Section 3292(c)(5) that would specify that the assurance received by the employer from the building owner, must be "written" assurance. The amendment would have the effect of providing consistency with Section 3292(c)(1) and (c)(3) that assurances received from the building owner to an employer are in writing.

Section 3295. Powered Platform Installations — Equipment.

Section 3295 provides requirements that apply to equipment for powered platform installations such as

platforms, stabilizing components, carriages, outriggers, davits, hoisting machines, wire ropes and electrical components. In addition to the amendment for new Section 3295(c)(3)(G), several non-substantive renumbering and editorial revisions are included in the proposal for clarity.

New Section 3295(c)(3)(G)

Section 3295(c) provides that elevated building maintenance equipment shall be suspended by a carriage, outriggers, davits or an equivalent method. Section 3295(c) provides specific design and installation requirements for davits. A new Section 3295(c)(3)(G) is proposed that would require portable davits to have a maximum reach of 8 feet, 6 inches (2600 mm) and a maximum fully assembled weight of 300 pounds (135 kg). The proposed amendment would have the effect of keeping portable davits at a size that are already specified in national consensus standards for window cleaning and building maintenance operations. The amendment would also have the effect of ensuring that portable davits are designed so that they can be safely moved from one drop location to another by window cleaning and building maintenance personnel.

Section 3296. Inspection and Tests.

Section 3296 contains requirements related to the inspection and testing of completed building maintenance equipment installations before being placed into service. This section also requires periodic inspection, testing, maintenance and documentation of inspection and testing for existing installations.

Section 3296(a)

Existing Section 3296(a) requires all completed building maintenance equipment installations to be inspected and tested in the field before being placed in initial service to determine that all parts of the installation conform to applicable requirements of Article 6, and that all safety and operating equipment is functioning as required. This subsection requires a similar inspection and test to be made following any major alteration to an existing installation. This subsection further states that no hoist in an installation shall be subjected to a load in excess of 125 percent of its rated load.

A non-substantive formatting amendment would move the last sentence of this subsection to a new Section 3296(a)(1) for clarity.

A new subsection 3296(a)(2) is proposed that would require the building owner to keep a certification record of each inspection and test that is required for completed installations under subsection (a) of this section. The amendment would have the effect of requiring similar certification and documentation of inspection and testing for completed installations that are required in Section 3296(b)(2) for existing installations, thus

avoiding confusion as to which inspections and tests require that a record be kept.

Section 3296(b)(2)

Subsection (b)(1), in part, requires building maintenance equipment and installations to undergo periodic inspection and testing at least every 12 months. Existing Section 3296(b)(2) requires the building owner to keep a certification record of each inspection and test required under subsection (b)(1) of Section 3296. An amendment is proposed in subsection (b)(2) that would require the certification record (documentation) to be maintained for each inspection and test required under all of subsection (b) of Section 3296. The proposed amendment would have the effect of ensuring that the building owner has a certification record of professional engineer inspections and any load testing of building safety devices and equipment required under the provisions of subsection (b), including proposed Section 3296(b)(3).

New Section 3296(b)(3)

Existing Section 3296(b)(3) is relocated to Section 3296(b)(7) in the proposal. A new Section 3296(b)(3) would require that building safety devices and equipment as described in Section 3282(p)(1)(A) shall be load tested if damage, corrosion or deterioration affecting the load bearing integrity of the equipment is detected or suspected. The effect of this amendment would result in identifying conditions that would require load testing to verify the structural and load bearing integrity of safety devices and equipment.

New Section 3296(b)(3)(A)

Proposed Section 3296(b)(3)(A) would require that the safety device or equipment shall be removed from service until repaired or replaced if testing indicates that the load sustaining integrity of a safety device or equipment has been compromised. The effect of this amendment would be to ensure that unsafe devices or equipment are repaired or removed from service.

New Section 3296(b)(3)(B)

Proposed Section 3296(b)(3)(B) would require that a professional engineer experienced in the design of building safety devices and equipment inspect and evaluate such equipment when any of the following occur; 1) The design documents are not available; 2) The design is deficient; or 3) Inspections or tests determine that the safety devices or equipment are not safe for use. The proposed amendments would have the effect of ensuring that a building's safety devices and equipment that are integral for safe window cleaning or building maintenance operations are evaluated by a professional engineer when such devices or equipment's operational or structural integrity is not documented, or is suspect or compromised.

New Section 3296(b)(3)(C)

Proposed new Section 3296(b)(3)(C) would require that damage to safety devices or equipment, or damage to the building structure from testing operations shall be reported to the building owner. The proposed amendment would have the effect of ensuring that the building owner is notified when the safety devices, equipment or the building structure is damaged from the testing operations.

New Section 3296(b)(3)(D)

Proposed new Section 3296(b)(3)(D) would require that if safety deficiencies affecting the load bearing integrity of devices or equipment have not been corrected within 60 days from the date the building owner was notified, the deficiencies shall be reported to the Division by the inspecting agency. The proposed amendment would have the effect of ensuring that unsafe building conditions associated with the use of load bearing devices and equipment are corrected.

New Section 3296(b)(4)(A)

Proposed new Section 3296(b)(4)(A) would require that load suspension devices shall not be tested to more than 2 times the rated working load which the device is designed to lift and/or support. Load suspension devices such as davits and outrigger beams are required by Section 3291 to be designed with a safety factor of 4 times the rated load. It is an accepted engineering practice in window cleaning operations that load sustaining devices such as davits and outrigger beams be load tested to no more than 2 times the rated load. Therefore, the proposed amendment would have the effect of testing these devices sufficiently to ensure their structural integrity but not testing them to the extent that the devices or building structure sustains damage.

New Section 3296(b)(4)(B)

Proposed new Section 3296(b)(4)(B) would require that roof tie-backs be tested to no more than 50 percent of their rated capacity. For example, a roof tie-back with a rated capacity of 5000 pounds would not be tested in excess of 2500 pounds. Design standards for roof tie-backs do not specify a specific required safety factor or rated working load. However, engineers familiar with the window cleaning industry indicate that a safety factor of 4 to 1 is included in the overall load design limits or rated capacity of the devices. Therefore, the amendment would have the effect of testing these devices sufficiently to ensure their structural integrity but not testing them to the extent that the devices or building roof structure sustains damage.

New Section 3296(b)(5)

Proposed new Section 3296(b)(5) would require that test equipment is calibrated at least annually and these records be available to the Division. The proposed amendment would have the effect of ensuring accurate

tests are performed on devices that are integral for safe window cleaning and building maintenance operations.

New Section 3296(b)(6)

Proposed new Section 3296(b)(6) would require the load testing methodology and load testing procedures for a building's safety devices and equipment to be prescribed in writing by a professional engineer and that load tests are performed by qualified persons under the direction of the engineer. The proposed amendment would have the effect of ensuring effective and safe testing procedures that are planned and performed by persons with the appropriate expertise.

SPECIFIC TECHNOLOGY OR EQUIPMENT

This proposal will not mandate the use of specific technologies or equipment. In Section 3291, the proposal clarifies existing requirements, and would reduce the design strength requirements for roof tie-backs consistent with strength requirements for anchors used in fall protection systems and those specified in window cleaning related national consensus standards. The proposed amendment for Section 3292 is editorial and provides clarity to the standard.

The proposed amendment for Section 3295 would limit the maximum reach and fully assembled weight of portable davits. National consensus standards for window cleaning safety and the use of powered platforms for building maintenance such as AMSE A120.1-2001, contain similar portable davit size limits. The Division states that it has prohibited the installation of huge, oversized davits for a number of years and does not expect that existing buildings will be subject to retrofitting.

Proposed amendments for Section 3296 would require building owners to maintain records of initial inspections and testing that is performed on completed building maintenance installations. The proposal also clarifies and specifies when load testing should be performed on building safety devices and equipment. It is believed that building owners and their scaffold inspection and testing agencies are already testing building safety devices and equipment that show damage or deterioration affecting the load bearing integrity of such equipment.

The proposal also requires, under certain conditions, that a professional engineer would evaluate building safety devices and equipment and that the testing procedures are prescribed by a professional engineer. An engineer is already required by Sections 3291 and 3294(a)(1) to prepare calculations and/or plans for the design and structural integrity of all facets of building installations. Scaffold inspection testing agencies and members of the Building Owners and Managers

Association indicate that they already use professional engineers to plan and prescribe load testing procedures. Therefore, it is not anticipated that the proposal will result in any significant new costs to building owners or businesses.

COST ESTIMATES OF PROPOSED ACTION

Costs or Savings to State Agencies

No costs or savings to state agencies will result as a consequence of the proposed action. Also, see the statement above under the heading "Specific Technology or Equipment."

Impact on Housing Costs

The Board has made an initial determination that this proposal will not significantly affect housing costs.

Impact on Businesses

The Board has made an initial determination that this proposal will not result in a significant, statewide, adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. Also, see the statement above under the heading "Specific Technology or Equipment."

Cost Impact on Private Persons or Businesses

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. Also, see the statement above under the heading "Specific Technology or Equipment."

Costs or Savings in Federal Funding to the State

The proposal will not result in costs or savings in federal funding to the state.

Costs or Savings to Local Agencies or School Districts Required to be Reimbursed

No costs to local agencies or school districts are required to be reimbursed. See explanation under "Determination of Mandate."

Other Nondiscretionary Costs or Savings Imposed on Local Agencies

This proposal does not impose nondiscretionary costs or savings on local agencies.

DETERMINATION OF MANDATE

The Occupational Safety and Health Standards Board has determined that the proposed standards do not impose a local mandate. Therefore, reimbursement by the State is not required pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code because the proposed amendments will not require local agencies or school districts to incur additional costs in complying with the proposal. Fur-

thermore, these standards do not constitute a “new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution.”

The California Supreme Court has established that a “program” within the meaning of Section 6 of Article XIII B of the California Constitution is one which carries out the governmental function of providing services to the public, or which, to implement a state policy, imposes unique requirements on local governments and does not apply generally to all residents and entities in the state. (*County of Los Angeles v. State of California* (1987) 43 Cal.3d 46.)

These proposed standards do not require local agencies to carry out the governmental function of providing services to the public. Rather, these standards require local agencies to take certain steps to ensure the safety and health of their own employees only. Moreover, these proposed standards do not in any way require local agencies to administer the California Occupational Safety and Health program. (See *City of Anaheim v. State of California* (1987) 189 Cal.App.3d 1478.)

These proposed standards do not impose unique requirements on local governments. All state, local and private employers will be required to comply with the prescribed standards.

EFFECT ON SMALL BUSINESSES

The Board has determined that the proposed amendments may affect small businesses. However, no economic impact is anticipated. Also, see the statement above under the heading “Specific Technology or Equipment.”

ASSESSMENT

The adoption of the proposed amendments to these standards will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

REASONABLE ALTERNATIVES CONSIDERED

Our Board must determine that no reasonable alternative considered by the Board or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective as and less burdensome to affected private persons than the proposed action.

2. **TITLE 8: GENERAL INDUSTRY SAFETY ORDERS**
Chapter 4, Subchapter 7, Article 69
Section 4543
Guarding of Meat Cutting Band Saw Blades

INFORMATIVE DIGEST OF PROPOSED ACTION/POLICY STATEMENT OVERVIEW

This rulemaking action was initiated as a result of a Division of Occupational Safety and Health (Division) Request for New, or Change in Existing, Safety Order, Form 9, memorandum to the Occupational Safety and Health Standards Board (Board) dated January 9, 2003.

The Division’s Form 9 request indicates that the language contained in General Industry Safety Orders (GISO) Section 4543 does not afford the user of a meat cutting band saw any explicit protection from the bottom of the sliding guard to the working table. Board staff agrees with the Division’s suggestions and proposes additional changes to provide employees with proper protection.

Existing Section 4543 causes confusion because the standard calls for guarding of the meat cutting band saws, but is not technically specific in nature. The situation is compounded because woodworking equipment is similar to the meat cutting equipment; however, the woodworking section allows an exemption for meat cutting band saw equipment. This proposal would provide the specific performance requirements to address the confusion in the existing language.

Federal standards contained in 29 CFR 1910.213(i)(1) apply to the guarding of woodworking machinery. Meat cutting and woodworking equipment are similar in construction and use. Since there is no specific Federal OSHA standard for meat cutting band saws, Federal OSHA inspectors use this section to enforce safety requirements for guarding these band saw blades. Therefore, Section 4543 even though it deals specifically with meat cutting, must be at least as effective as the federal standard. The proposed subsections (a) and (d) provide consistency with the federal standard.

The Division provided a U. S. Department of Labor Integrated Management Information System report listing several accidents involving meat cutting band saws that occurred from January 1, 1995, through December 31, 2005, in California. Typically these accidents involve amputation or partial amputation of the thumb or the fourth and fifth finger(s). Since these saws cut through bone, the amputation of a finger, fingers or even a whole hand can occur in an instant. The amputated or partially amputated finger(s) can sometimes be re-attached; however, the full use of the injured finger(s) may not be fully restored.

The Division also provided a U. S. Department of Labor Integrated Management Information System report listing ten complaint related inspections involving meat cutting band saws that occurred from January 1, 1995, through December 31, 2005, in California. The employers each received a serious violation of Section 4543 on their citation.

All new meat cutting band saws have guards as standard equipment that would comply with the proposed standard. The proposed revisions would have a very slight impact on the meat cutting industry as a whole. An estimated 99% of the machines and most of the standard's proposed practices are currently in use by the meat processing industry. This proposal may impact about 170 saws in this classification. This proposed revision includes few changes in the actual equipment guarding or usage practices; it primarily provides technical clarification of the standard.

Section 4543. Guarding of Meat Cutting Band Saw Blades.

Section 4543 provides for the proper guarding of meat cutting band saws blades that must be in place prior to an operator performing the process of cutting meat on the band saw. Section 4543 currently requires a guard for the portion of the blade between the sliding guide and the upper-saw-wheel guard that will protect the saw blade at the front and outer side of the blade. The guard shall be self-adjusting to raise and lower with the guide.

This rulemaking action proposes an amendment to Section 4543 to be more specific on the individual guarding requirements. Meat cutting saw blades can cut off fingers or sever the hand of the operator in an instant if not properly guarded. These saws are designed to cut through meat and bone. The object of this standard is to protect the operator from the exposed saw blade, yet still allow operation of the equipment. The current standard lacks technical specificity in the guarding requirements. This proposed standard is to ensure that the operator is properly protected to the fullest extent possible.

A new subsection (a) is proposed which would require all portions of the saw blade to be guarded except that portion between the bottom of the guide rolls and the table. The language is verbatim of one sentence in 29 CFR 1910.213 of the federal rule. The effect of the proposed revision would be to require the employer to guard or adjust the existing guard of the saw blade to prevent fingers from coming in contact with the point of operation.

An editorial revision is proposed to reformat the regulatory text as new subsection (b), and replace the term "self-adjusting" with "easily hand adjustable by the saw operator, without the use of any tools." The effect of this amendment would be to clarify the intent of the

standard by replacing the term "self-adjusting" with the proposed language.

A revision is proposed to add a new subsection (b)(1), which states, "The adjustable saw blade guard shall be designed and manufactured so that the guard is capable of reaching the saw table." The effect of this amendment would be to require employers that do not already have guards with these capabilities to use or install a guard that can reach the saw table.

A revision is proposed to add a new subsection (b)(2) that states, "The guard must be adjusted as close as possible to the table without interfering with the movement of the material being cut." The effect of the proposed revision would be to clarify to the employer to minimize the hazard of employee contact with the point of operation through adjustment of the guard while still permitting the product (meat) to be cut.

A new subsection (c) is proposed to require the use of pusher plates to hold the meat against the gauge plate when slicing short ends (i.e., the narrow end of the loin). The effect of this amendment would be to clarify to the employer that all employees are required to use the pusher plates to avoid working close to the saw blade without this protection.

A revision is proposed to add a new subsection (d) to include the following terminology, "Saw wheels shall be fully enclosed by a guard." The effect of the proposed subsection (d) would be to ensure that, to the fullest extent possible, the points of operation on the meat cutting band saw are protected from inadvertent employee contact which could result in serious employee injury or fatality.

COST ESTIMATES OF PROPOSED ACTION

Costs or Savings to State Agencies

No costs or savings to state agencies will result as a consequence of the proposed action. The Department of Corrections, at Folsom State Prison and Mule Creek State Prison were contacted regarding their use of meat cutting band saws. The Mule Creek Prison Facility in Ione, California, operates the Prison Industries Authority (PIA) rehabilitation program for inmates working in their meat processing plant. The facility currently has two meat-cutting band saws stored in a warehouse and is preparing to dispose of them. This is the only prison facility in the California prison system that does meat processing. They prepare meat for all State Prisons, State hospitals and other governmental agencies.

Impact on Housing Costs

The Board has made an initial determination that this proposal will not significantly affect housing costs.

Impact on Businesses

The Board has made an initial determination that this proposal will not result in a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

The proposed language is more specific than the current performance standard and will make it clear to meat cutting shops that additional guarding may be needed. There are a small number of meat cutting band saws that are not properly guarded; it is estimated to be less than one percent of the total meat cutting band saws in California. These machines can be retrofitted with a replacement guard for under \$75 and the owner or saw operator can install the new guard in about five minutes. There are an estimated 170 saws in this category and replacement parts, including longer guards are still available for these older saws. The improved guarding reduces the chance of finger(s) or hand amputation. Most companies would have only one, if any, of these machines per location. These machines cost about \$5,000 new and remain in service for 30 years or more since the replacement parts are still readily available and the machines are made of high quality stainless steel. The employer will benefit from higher productivity if use of the meat saw equipment does not result in lost work time accidents, reduced workers' compensation expenses and litigation. Employees will benefit from safer working conditions.

Cost Impact on Private Persons or Businesses

The Board believes that few businesses will be affected by the proposed action. Any costs that businesses may incur to be in compliance with the proposed standard are in line with the preceding section, "Impact on Businesses."

Costs or Savings in Federal Funding to the State

The proposal will not result in costs or savings in federal funding to the state.

Costs or Savings to Local Agencies or School Districts Required to be Reimbursed

No costs to local agencies or school districts are required to be reimbursed. See explanation under "Determination of Mandate."

Other Nondiscretionary Costs or Savings Imposed on Local Agencies

This proposal does not impose nondiscretionary costs or savings on local agencies.

DETERMINATION OF MANDATE

The Occupational Safety and Health Standards Board has determined that the proposed standard does not impose a local mandate. Therefore, reimbursement by the state is not required pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code because the proposed amendment will not require local agencies or school districts to incur additional costs in complying with the proposal. Furthermore, this standard does not constitute a "new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution."

The California Supreme Court has established that a "program" within the meaning of Section 6 of Article XIII B of the California Constitution is one which carries out the governmental function of providing services to the public, or which, to implement a state policy, imposes unique requirements on local governments and does not apply generally to all residents and entities in the state. (*County of Los Angeles v. State of California* (1987) 43 Cal.3d 46.)

The proposed standard does not require local agencies to carry out the governmental function of providing services to the public. Rather, the standard requires local agencies to take certain steps to ensure the safety and health of their own employees only. Moreover, the proposed standard does not in any way require local agencies to administer the California Occupational Safety and Health program. (See *City of Anaheim v. State of California* (1987) 189 Cal.App.3d 1478.)

The proposed standard does not impose unique requirements on local governments. All state, local, and private employers will be required to comply with the prescribed standard.

EFFECT ON SMALL BUSINESSES

The Board has determined that the proposed amendment may affect a few small businesses. However, no economic impact is anticipated.

ASSESSMENT

The adoption of the proposed amendment to this standard will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

REASONABLE ALTERNATIVES CONSIDERED

Our Board must determine that no reasonable alternative considered by the Board or that has otherwise been

identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective as and less burdensome to affected private persons than the proposed action.

A copy of the proposed changes in STRIKEOUT/UNDERLINE format is available upon request made to the Occupational Safety and Health Standard Board's Office, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833, (916) 274-5721. Copies will also be available at the Public Hearing.

An INITIAL STATEMENT OF REASONS containing a statement of the purpose and factual basis for the proposed actions, identification of the technical documents relied upon, and a description of any identified alternatives has been prepared and is available upon request from the Standards Board's Office.

Notice is also given that any interested person may present statements or arguments orally or in writing at the hearing on the proposed changes under consideration. It is requested, but not required, that written comments be submitted so that they are received no later than November 10, 2006. The official record of the rule-making proceedings will be closed at the conclusion of the public hearing and written comments received after 5:00 p.m. on November 16, 2006, will not be considered by the Board unless the Board announces an extension of time in which to submit written comments. Written comments should be mailed to the address provided below or submitted by fax at (916) 274-5743 or e-mailed at oshsb@dir.ca.gov. The Occupational Safety and Health Standards Board may thereafter adopt the above proposal substantially as set forth without further notice.

The Occupational Safety and Health Standards Board's rulemaking file on the proposed actions including all the information upon which the proposals are based are open to public inspection Monday through Friday, from 8:30 a.m. to 4:30 p.m. at the Standards Board's Office, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833.

The full text of proposed changes, including any changes or modifications that may be made as a result of the public hearing, shall be available from the Executive Officer 15 days prior to the date on which the Standards Board adopts the proposed changes.

Inquiries concerning either the proposed administrative action or the substance of the proposed changes may be directed to Keith Umemoto, Executive Officer, or Michael Manieri, Principal Safety Engineer, at (916) 274-5721.

You can access the Board's notice and other materials associated with this proposal on the Standards Board's homepage/website address which is <http://www.dir.ca.gov/oshsb>. Once the Final Statement

of Reasons is prepared, it may be obtained by accessing the Board's website or by calling the telephone number listed above.

TITLE 10. CALIFORNIA DEPARTMENT OF CORPORATIONS

NOTICE IS HEREBY GIVEN

The Commissioner of Corporations ("Commissioner") proposes to amend Rules under the California Finance Lenders Law (CFLL) (commencing with Financial Code Section 22000) relating to the application for a finance lender or broker's license.

PUBLIC COMMENTS

No public hearing is scheduled. Any interested person or his or her duly authorized representative may request, in writing, a public hearing pursuant to Section 11346.8(a) of the Government Code. The request for hearing must be received by the Department of Corporations' ("Department") contact person designated below no later than 15 days prior to the close of the written comment period.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Department, addressed to Karen Fong, Office of Law and Legislation, Department of Corporations, 1515 K Street, Suite 200, Sacramento, CA 95814-4052, no later than 5:00 p.m., November 13, 2006. Written comments may also be sent to Karen Fong (1) via electronic mail at regulations@corp.ca.gov or (2) via fax at (916) 322-5875. If this day is a Saturday, Sunday or state holiday, the comment period will close at 5 p.m. on the next business day.

INFORMATIVE DIGEST/PLAIN ENGLISH OVERVIEW

Under the CFLL, the Department licenses and regulates finance lenders and brokers conducting business in this state. The CFLL provides that no person shall engage in the business of a finance lender or broker without obtaining a license from the Commissioner (Financial Code Section 22100). The Department's "Application for a License Under the California Finance Lenders Law" (Application) is contained in the rules. This form is used by applicants seeking to become licensed as fi-

nance lenders or brokers. The Department's "Short Form Application" (Short Form) is also contained in the rules. The Short Form is used by applicants holding one or more CFLL licenses seeking to open a new location.

This regulatory action proposes to amend the Application and the Short Form by requiring consistent information from an applicant, regardless of the applicant's form of business; to clarify the information being requested in the Application and Short Form; and to comply with changes regarding the processing of fingerprints resulting from Senate Bill 970 (Chapter 470, Statutes of 2003), Assembly Bill 502 (Chapter 425, Statutes of 2005) and Assembly Bill 1419 (Chapter 196, Statutes of 2005).

Section 1422

Requires all types of applicants to provide uniform identifying information, requires the applicant to provide fingerprint information to the Department and to pay for the costs of processing the fingerprints, deletes application processing time frames, and makes various nonsubstantive changes to grammar, editing, and punctuation.

Section 1423

Sets forth changes to clarify the instructions and requirements of the Short Form.

AUTHORITY

Section 22150, Financial Code.

REFERENCE

Sections 22101, 22102 and 22106, Financial Code.

AVAILABILITY OF MODIFIED TEXT

The text of any modified regulation, unless the modification is only non-substantial or solely grammatical in nature, will be made available to the public at least 15 days prior to the date the Department adopts the regulation(s). A request for a copy of any modified regulation(s) should be addressed to the contact person designated below. The Commissioner will accept written comments on the modified regulation(s) for 15 days after the date on which they are made available. The Commissioner may thereafter adopt, amend or repeal the foregoing proposal substantially as set forth above without further notice.

AVAILABILITY OF STATEMENT OF REASONS, TEXT OF PROPOSED REGULATIONS/INTERNET ACCESS

The express terms of the proposed action may be obtained upon request from any office of the Department. Request Document PRO 21/05-B. An initial statement of reasons for the proposed action containing all the information upon which the proposal is based is available from the contact person designated below. Request Document PRO 21/05-C. These documents are also available at the Department's website www.corp.ca.gov. As required by the Administrative Procedure Act, the Office of Law and Regulations maintains the rulemaking file. The rulemaking file is available for public inspection at the Department of Corporations, Office of Law and Legislation, 1515 K Street, Suite 200, Sacramento, California 95814-4052.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, the Final Statement of Reasons will be available and copies may be requested from the contact person named in this notice or may be accessed on the website listed above.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), the Department must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

FISCAL IMPACT

- Cost or Savings to any State Agency: None.
- Direct or Indirect Costs or Savings in Federal Funding to the State: None.
- Cost to Local Agencies and School Districts Required to be Reimbursed under Part 7 (commencing with Section 17500) of Division 4 of the Government Code: None
- Other nondiscretionary costs/savings imposed on local agencies: None
- Costs to Private Persons or Businesses Directly Affected: Insignificant or none.

DETERMINATIONS

The Commissioner has made an initial determination that the proposed regulatory action:

- Does not affect small businesses. Finance lenders are not considered a small business under Government Code Section 11342(h)(2).
- Does not affect small businesses. Small businesses will not be required to comply with or enforce the proposed regulation. The Department has determined that small businesses will neither derive a benefit from nor incur a detriment from the enforcement of the proposed regulation.
- Does not impose a mandate on local agencies or school districts, or a mandate that is required to be reimbursed pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code.
- Does not have an effect on housing cost.
- Does not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.
- Does not significantly affect (1) the creation or elimination of jobs within the State of California; (2) the creation of new businesses or the elimination of existing businesses within the State of California; (3) the expansion of businesses currently doing business within the State of California.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

EFFECT ON SMALL BUSINESS

None.

CONTACT PERSON

Nonsubstantive inquiries concerning this action, such as requests for copies of the proposed regulation or questions regarding the timelines or rulemaking status, may be directed to Karen Fong at (916) 322-3553. Inquiries regarding the substance of the proposed regulation may be directed to Peggy Fairman, Corporations Counsel, Department of Corporations, 1515 K Street, Suite 200, Sacramento, California 95814, (916) 322-3553.

TITLE 10. DEPARTMENT OF CORPORATIONS

California Corporations Commissioner
Sacramento, California

IN THE REPLY REFER TO
FILE NO. PRO 31/06

INVITATION FOR COMMENTS ON ADMINISTRATIVE REGULATION UNDER THE CORPORATE SECURITIES LAW

NOTICE

Pursuant to Government Code Section 11346(b), the Department of Corporations (the "Department") is inviting comments from interested persons to address whether the Department should adopt an exemption and/or limited registration system for finders and private placement broker-dealers.¹

Comments from interested persons will assist the Department in determining whether amendments to regulations under the Corporate Securities Law of 1968 (the "CSL") are necessary and appropriate.

BACKGROUND

The Department licenses and regulates broker-dealers pursuant to the Corporate Securities Law of 1968, as amended. Corporations Code Section 25004 defines a broker-dealer as any person engaged in the business of effecting transactions in securities in this state for the account of others or for his own account, but does not include certain persons excluded by statute. Corporations Code Section 25204 authorizes the Commissioner of Corporations (the "Commissioner") to exempt from licensing any class of persons, unconditionally or for upon specified terms and conditions or for specified periods, as deemed necessary or appropriate in the public interest or for the protection of investors.

Under Corporations Code 25210, it is unlawful for a broker-dealer to conduct business without first applying for and securing a certificate unless exempt. Persons engaged in unlicensed broker-dealer conduct can be subject to administrative, civil, and criminal sanctions. Furthermore, Corporations Code Section 25501.5 imposes liability for rescission and money damages for the

¹ For purposes of this notice and consistent with previous guidance issued by the Department, unless otherwise noted, a finder shall refer to a person whose activities do not fall within the definition of a broker-dealer. A private placement broker-dealer shall refer to a person whose activities do fall within the definition of a broker-dealer, but whose activities are generally limited to receiving transaction-based compensation in unregistered offerings to accredited investors.

purchase or sale of a security by any unlicensed broker-dealer who is not otherwise exempt from licensure.

Under current law, finders do not fall within the definition of a broker-dealer, provided that they engage in only limited activities. One key issue is whether a finder is “engaged in the business of effecting transactions in securities.”

Persons who engage in activities that go beyond the limited scope permitted for finders are required to be licensed by the Department as a broker-dealer unless otherwise exempt.² Under the current regulation scheme in California, the Department makes no distinction in licensing and examination between a traditional, full service broker-dealer and those persons who might engage in comparatively more limited activities of a private placement broker-dealer.

Recent Developments

In May 2005, a task force created by the American Bar Association Section of Business Law published its report on private placement broker-dealers (the “ABA Report”).³ The ABA Report observed that private placement broker-dealers were critical to the success of smaller and emerging companies obtaining early stage financing, particularly for raising capital in an amount less than \$5 million.⁴ The ABA Report asserted that a number of legal, regulatory, and economic factors had contributed to creating a very constricted market for obtaining equity financing by smaller issuers.⁵

The ABA Report also raised concerns with persons involved in the negotiation and consummation of mergers and acquisition transactions and whether such activities are subject to broker-dealer licensure.⁶ The ABA Report recommended that securities regulators establish a simplified registration system for private placement broker-dealers (including mergers and acquisition specialists).⁷

Similarly, in April 2006, the Advisory Committee on Smaller Public Companies issued its final report to the U.S. Securities and Exchange Commission (“SEC”). One of the primary recommendations in the report was for the SEC to spearhead a streamlined registration process for private-placement broker-dealers.⁸ The report noted that “virtually all of the services” provided by pri-

vate placement broker-dealers in support of capital formation activities amount to unregistered broker-dealer activity.⁹

Existing California Law

Previously judicial decisions and interpretive opinions issued by the Commissioner have addressed the issue of finders and have narrowly construed the scope of permissible activities. In general, a person who simply introduces other parties, without negotiating on behalf of either party and without providing any information on which either party may rely upon in negotiations, is not a broker-dealer under Corporations Code Section 25004.¹⁰

A person will not be a finder if such person’s conduct goes considerably beyond the mere introduction of prospective parties, such as by assisting in negotiations and providing other services which, as a practical matter, are essential to consummating such transactions.¹¹ Information that may assist in the negotiations between parties includes information on bids, initial purchase price, quantity of securities, and other information concerning the securities.¹²

A finder may not suggest or recommend any manner or means of consummating a transaction.¹³ To the extent a finder represents a potential investor, the finder may not receive any guidance from such investor as to the types of offering that such investor is interested and the finder may not screen out certain offerings as unsuitable for such investor.¹⁴

Notwithstanding the foregoing, the Commissioner has previously found an exception for nonprofit entities. In Commissioner’s Opinion No. 80/11C (Dec. 19, 1980), the Commissioner found that a nonprofit unincorporated association was not “engaged in business” as a broker-dealer even though it might engage in activities which go beyond the “normal” activities of a finder. The Commissioner found it significant that the entity was nonprofit and organized for the purpose of reviewing investment proposals and that all members of the entity were multi-employer pension trusts organized under the Labor Management Relations Act and qualified under the Internal Revenue Code.¹⁵

⁹ Id.

¹⁰ See *Lyons v. Stevenson* (1977) 65 Cal. App. 3d 595, 600–606; *Evans v. Riverside International Raceway* (1965) 237 Cal. App. 2d 666, 675–76; Commissioner’s Opinion No. 81/1C (Jan. 19, 1981).

¹¹ Commissioner’s Opinion No. 78/22C (Dec. 13, 1978); see also Interpretive Opinion No. PL/180C (Aug. 19, 1971) (describing activities that fall within the definition of “broker-dealer”).

¹² Commissioner’s Opinion No. 01/1C (Dec. 6, 2001) (citing Commissioner’s Opinion Nos. 77/21C (Oct. 6, 1977), 78/8C (Jun. 9, 1978), and 78/9C (Jun. 9, 1978)).

¹³ Commissioner’s Opinion No. 73/67C (May 21, 1973).

¹⁴ Id.

¹⁵ Commissioner’s Opinion No. 80/11 C (Dec. 19, 1980).

² Corporations Code Section 25210.

³ Task Force on Private Placement Broker-Dealers, ABA Section of Business Law, “Report and Recommendations of the Task Force on Private Placement Broker-Dealers,” 60 Business Lawyer 959 (May 2005) (hereinafter, “ABA Report”).

⁴ Id. at 960.

⁵ Id. at 968–70.

⁶ ABA Report at 989–97.

⁷ Id. at 961.

⁸ Advisory Committee on Smaller Public Companies to the U.S. Securities and Exchange Commission, Final Report, 81 (Apr. 2006).

Section 260.204.2 of Title 10, California Code of Regulations, exempts from licensing as a broker–dealer any mergers and acquisition specialist so long as such person does not receive, transmit, or hold any funds or securities in connection with such transaction.

Effect of Federal Securities Law

Section 15(a)(1) of the federal Securities Exchange Act of 1934 prohibits any broker or dealer (other than those persons whose business is exclusively intrastate and who do not make use of any facility of a national securities exchange) from effecting, inducing or attempting to induce the purchase or sale of any security unless such person is registered with the SEC.¹⁶ Therefore, unless the business of a private placement broker–dealer is exclusively within California and not through a national securities exchange, there will be concurrent federal jurisdiction over such activities.¹⁷ Nonetheless, given the significant amount of in–state economic activity that exceeds the level of most countries, the Commissioner believes that it is possible to have a viable private placement broker–dealer business on an intrastate basis in California.

Actions by Other States

The states of Michigan, Minnesota, and Texas have each adopted regulatory provisions, which provide for a limited registration system for finders and/or private placement broker dealers.¹⁸ Michigan requires a “finder” (as defined under Michigan law) to register as an investment adviser and finder activities are limited to “locating, introducing, or referring potential purchasers or sellers.”¹⁹ However, the ABA Report suggests that the “introduce, then step away” approach is problematic.²⁰

The Texas State Securities Board recently adopted regulations to provide for a restricted registration sys-

tem for finders (as defined by regulation).²¹ A finder would be limited to introducing only accredited investors and would not be permitted to negotiate the terms of any investment or give any advice about entering the investment.²² Securities examination requirements would be waived for finders.²³

In adopting the Uniform Securities Act of 2002, Minnesota included a non–standard provision, which exempted private placement broker–dealers representing issuers in connection with any exempt transaction from registering as agents.²⁴ Minnesota conditioned the availability on the absence of any disciplinary history, prohibited the handling or possession of funds and securities, and required a notice filing and consent to service of process.²⁵ Minnesota’s provision permits a private placement broker–dealer to register only once with the state securities regulator but allows the private placement broker–dealer to represent multiple issuers.²⁶

Request for Comments

The Commissioner believes that it is in the public interest to obtain the views of interested parties as to whether the existing regulatory structure in California adequately addresses the issue of finders and private placement broker–dealers. The Commissioner has concerns that the current approach with respect to finders and private placement broker–dealers may unduly impede capital formation and jobs creation in California. The Commissioner notes that difficulties in attracting capital may adversely impact small and emerging companies, which have historically been the catalysts for California’s leading position in technology, biological science, entertainment and other industries.²⁷ The Commissioner also desires to improve market transparency and to restrict the ability of those persons with disciplinary records to operate as private placement broker–dealers.

¹⁶ 15 U.S.C. Section 78o(a)(1).

¹⁷ The SEC staff has taken a very narrow view of finder activity exempt from registration as a broker–dealer. See Paul Anka, SEC No–Action Letter, 1991 SEC No–Act. LEXIS 925 (Jul. 24, 1991). However, the ABA Report questioned whether the position in Paul Anka is still valid due to more recent comments by the SEC staff and whether any transaction–based compensation is permissible for a finder. See ABA Report at 977–78; see also John W. Loofbourrow Associates, Inc., SEC No–Action Letter, 2006 SEC No–Act. LEXIS 523 (Jun. 29, 2006) (declining to issue no–action relief even though finder would not be (i) involved in structuring or placing securities, (ii) involved in negotiations or discussion of details about the transaction, (iii) making any investment recommendation, (iv) not offer or sell or solicit any offers to buy, and (v) not handle any funds or securities).

¹⁸ See Mich. Comp. Laws Sec. 451.502 (2006); 31 Tex. Reg. 6,709–12 (to be codified at 7 Tex. Admin. Code Secs. 115.1, 115.3, and 115.11) (Aug. 25, 2006); 2006 Minn. Laws Ch. 196 (to be codified at Minn. Stat. Sec. 80A)).

¹⁹ See Mich. Comp. Laws Sec. 451.801(i) (2006).

²⁰ ABA Report at 966.

²¹ Effective as of Sept. 1, 2006. See 31 Tex. Reg. at 6,709.

²² 31 Tex. Reg. at 6,711.

²³ Id.

²⁴ 2006 Minn. Laws Ch. 196. Sec. 18(a)(11) (to be codified at Minn. Stat. Sec. 80A.57(a)(11) and effective as of Aug. 1, 2007).

²⁵ Id.

²⁶ Id.; cf. Mass. Reg. tit. 950, Sec. 12.202(3) (2005) (which permits agent registration for a single issuer).

²⁷ See, e.g., Duane Roth, “Emerging Tech, Life Science Sectors Alive and Well in San Diego,” San Diego Bus. J. A27 (Jul. 10, 2006) (describing the “valley of death” for emerging technology companies as the difficulty in obtaining financing during the period after the proof–of–concept stage, but before the company has demonstrated customer interest or the ability to generate revenues).

QUESTIONS UNDER CONSIDERATION

1. Should California adopt an exemption or a limited registration system for finders and private placement broker-dealers? Should there be a two-tier approach with very limited activities being permitted to utilize an exemption and more involved activities requiring registration?
2. If a limited registration system was adopted, should there be an examination requirement similar to the NASD-administered exams for private placement broker-dealers?
3. What form and type of disclosure should private placement broker-dealers be required to provide?
4. What limitations, if any, should be placed on the types of investors to which finders and private placement broker-dealers be permitted to solicit?
5. What limitations, if any, should be placed on the types of activities conducted by finders and private placement broker-dealers?
6. Given the concurrent jurisdiction of the SEC with respect to finders and private placement broker-dealers involved in interstate commerce, is it worthwhile to proceed with a California-only system?

TIME FOR COMMENTS

The Department requests that comments be received by December 28, 2006. The Department may schedule a public hearing or a series of public hearings, as necessary, to provide additional opportunities to submit views on the questions under consideration.

WHERE TO SUBMIT COMMENTS

Please reference PRO 31/06 in correspondence to the Department. Please submit comments as follows:

Karen Fong
Office of Law and Legislation
1515 K Street, Suite 200
Sacramento, CA 95814-4052

Written comments may also be sent to Karen Fong (1) via electronic mail at regulations@corp.ca.gov or (2) via fax at (916) 322-5875.

CONTACT PERSONS

Non-substantive inquiries concerning this INVITATION FOR COMMENTS, such as requests for copies of documents or questions regarding timelines, may be directed to Karen Fong at (916) 322-3553. Inquiries regarding the substance of this invitation for comments may be directed to Mark Uyeda, Chief Advisor to the

Commissioner at (916) 324-9011, or Colleen Monahan, Senior Corporations Counsel, at (916) 324-5217.

TITLE 16. DEPARTMENT OF CONSUMER AFFAIRS

BOARD OF BEHAVIORAL SCIENCES NOTICE OF PROPOSED CHANGES IN THE REGULATIONS

NOTICE IS HEREBY GIVEN that the Board of Behavioral Sciences (Board) is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at the Handlery Union Square Hotel, 351 Geary Street, San Francisco, CA, 94102 on **November 16, 2006 at 1:00 p.m.** Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Board at its office no later than 5:00 p.m. on **November 15, 2006** or must be received by the Board at the hearing.

The Board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposal substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by Sections 4980.54, 4980.60, 4987, 4988.2, 4990.14, and 4994.1 of the Business and Professions Code, and to implement, interpret, or make specific Sections 730, 4980.03, 4980.20, 4980.30, 4980.35, 4980.40, 4980.44, 4980.50, 4980.54, 4984.7, 4984.8, 4986.20, 4986.70, 4986.71, 4986.80, 4986.82, 4987, 4987.6, 4992, 4994.1, 4996.2, 4996.3, 4996.4, 4996.6, 4996.18, 4996.22, and 4997 of the Business and Professions Code, Section 11166 of the Penal Code, and Section 15630 of the Welfare and Institutions Code, the Board is considering changes to Division 18 of Title 16 of the California Code of Regulations (CCR) as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Amend Section 1805 — Applications

The existing regulation sets forth the requirement that applications submitted to the Board for registration or

licensure shall be on a form prescribed by the Board. Under subdivision (b), the regulation further sets forth the provision that the Board may issue final filing dates for all examinations not to exceed ninety (90) days prior to any examination.

Because the Board no longer administers an oral examination, this proposal would delete the current language under subdivision (b). However, because the current examination is administered on a continuous basis and the fact that a new version is implemented approximately once every six months, this proposal would establish a 180-day waiting period between examinations for any applicant retaking an examination in order to ensure that the applicant take a different version of the examination.

Amend Section 1806 — Abandonment of Application

Repeal Section 1833.3 — Re-Examination

Section 1806 currently requires candidates to take an examination within one year of notification of eligibility to take the examination. Section 1833.3 currently requires applicants who fail an examination to retake that examination within one year from the date of the failure. However, candidates who fail are provided with a notice of eligibility 180 days from the date of failure, so both sections apply and reflect two different time frames.

This regulatory proposal would resolve the discrepancy between these two regulations, providing all candidates with a one-year period in which to take an examination to avoid abandonment of their application.

Amend Section 1816 — Renewal Fees

Amend Section 1816.1 — Initial License and Registration Fees

Amend Section 1816.2 — Written Examination and Re-Examination Fees

Amend Section 1816.4 — Examination Application Fees

Amend Section 1816.6 — Inactive License Fees

The existing regulations set forth the Board's fees for the respective items.

This proposal would set forth non-substantive changes that would restructure the regulations or make text revisions in order to: provide clarity; improve structure and order; provide consistency across the practice acts; and remove duplicative, outdated, or unnecessary language. The proposed changes under these regulations would be more user-friendly for staff, applicants, licensees, and registrants.

The following proposed regulatory changes are technical and/or editorial in nature and are in line with statutory changes proposed under SB 1475, Committee on Business, Professions and Economic Development (2005–2006).

Amend Section 1854 — Equivalent Degrees

The existing regulation sets forth degrees deemed equivalent to those specified in Section 4986.20(a) of the Business and Professions Code (BPC).

Consistent with the proposed language under SB 1475 which would adopt BPC Section 4989.20, this proposal would instead reference “educational institution approved by the board. . .” under that new statute.

Repeal Section 1855 — Equivalent Experience in Pupil Personnel Services

This proposal would repeal outdated grandparenting provisions.

Amend Section 1856 — Experience Equivalent to Three (3) Years Full-Time Experience as Credentialed School Psychologist

This proposal would delete outdated grandparenting provisions under subdivision (d).

Repeal Section 1857 — Experience Equivalent to One Year of Supervised Professional Experience

This proposal would repeal outdated grandparenting provisions.

Amend Section 1858 — Unprofessional Conduct

This proposal would delete provisions that would instead fall under BPC 4989.54 (SB 1475).

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Section 17561 Requires Reimbursement: None

Business Impact: The Board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

The following studies/relevant data were relied upon in making the above determination: N/A

Impact on Jobs/New Businesses: The Board has determined that this regulatory proposal will not have any impact on the creation of jobs or businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Cost Impacts on Representative Private Persons or Businesses: The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs: None

EFFECT ON SMALL BUSINESS

The Board has determined that the proposed regulatory action would not affect small businesses. This proposal would make technical and/or editorial changes to the Board's regulations.

CONSIDERATION OF ALTERNATIVES

The Board must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposal described in this Notice.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

INITIAL STATEMENT OF REASONS AND INFORMATION

The Board has prepared an Initial Statement of Reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained upon request from the Contact Person listed below.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All of the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public inspection by contacting the Contact Person named below.

You may obtain a copy of the Final Statement of Reasons, once it has been prepared, by making a written request to the Contact Person named below (or by accessing the website listed below).

CONTACT PERSON

Inquiries or comments concerning the proposed rule-making action may be addressed to:

Name: Justin Sotelo
Address: Board of Behavioral Sciences
1625 North Market Blvd, Suite S200
Sacramento CA 95834
Telephone: 916-574-7836
Fax: 916-574-8625
Email: Justin_Sotelo@dca.ca.gov

The backup contact person is:

Name: Christy Berger
Address: Board of Behavioral Sciences
1625 North Market Blvd, Suite S200
Sacramento CA 95834
Telephone: 916-574-7830
Fax: 916-574-8625
Email: Christy_Berger@bbs.ca.gov

WEBSITE ACCESS

Materials regarding this proposal can be found at www.bbs.ca.gov.

TITLE 16. DEPARTMENT OF CONSUMER AFFAIRS

BOARD OF BEHAVIORAL SCIENCES NOTICE OF PROPOSED CHANGES IN THE REGULATIONS

NOTICE IS HEREBY GIVEN that the Board of Behavioral Sciences (Board) is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at the Handlery Union Square Hotel, 351 Geary Street, San Francisco, CA, 94102 on **November 16, 2006 at 1:00 p.m.** Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Board at its office no later than 5:00 p.m. on **November 15, 2006** or must be received by the Board at the hearing.

The Board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposal substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by Sections 4980.60 and 4990.14 of the Business

and Professions Code, and to implement, interpret, or make specific Sections 4980.54, 4984.7, 4986.80, 4996.22, and 4996.6 of the Business and Professions Code, the Board is considering changes to Division 18 of Title 16 of the California Code of Regulations (CCR) as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Business and Professions Code Section 4980.60 authorizes the Board to adopt rules and regulations as may be necessary to enable it to carry into effect the provisions of Chapter 13 (Marriage and Family Therapists/Licensed Educational Psychologists). Business and Professions Code Section 4990.14 authorizes the Board to make such rules and regulations as may be necessary for the enforcement of Chapter 14 (Social Workers).

Amend Section 1816.7 — Delinquent Fees

The existing regulation sets forth delinquency fees for the licenses that the Board issues.

This proposal would add a delinquency fee for continuing education provider approval in order to reduce the processing of new provider applications. Currently, if a provider fails to renew its approval before its expiration, submittal of another new provider application is required.

Amend Section 1887.7 — Board Approved Providers

The existing regulation sets forth requirements for Board Approved Providers.

This proposal would delete the provision requiring a provider to apply for a new approval after the expiration date. In addition, the proposal would add the following provisions:

- A provider may not apply for a new provider approval number within one year of an existing approval's expiration unless the provider has undergone a change of ownership
- When a provider's approval is expired, no course may be presented for continuing education credits for licensees of the Board of Behavioral Sciences

Adopt Section 1887.75 — Renewal of Expired Approval

This proposal would set forth requirements for renewal of an expired approval.

Adopt Section 1887.77 — Time Limit for Renewal of Approval After Expiration; New Approval

This proposal would set forth a one-year time limit for renewal of an expired approval. Beyond one year from a provider's approval expiration, that provider would be required to apply for a new approval with the Board.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Section 17561 Requires Reimbursement: None

Business Impact: The Board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

The following studies/relevant data were relied upon in making the above determination: N/A

Impact on Jobs/New Businesses: The Board has determined that this regulatory proposal will not have any impact on the creation of jobs or businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Cost Impacts on Representative Private Persons or Businesses: The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs: None

EFFECT ON SMALL BUSINESS

The Board has determined that the proposed regulatory action would not affect small businesses. This proposal would establish delinquent fees for Continuing Education Providers.

CONSIDERATION OF ALTERNATIVES

The Board must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposal described in this Notice.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

INITIAL STATEMENT OF REASONS AND INFORMATION

The Board has prepared an Initial Statement of Reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained upon request from the Contact Person listed below.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All of the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public inspection by contacting the Contact Person named below.

You may obtain a copy of the Final Statement of Reasons, once it has been prepared, by making a written request to the Contact Person named below (or by accessing the website listed below).

CONTACT PERSON

Inquiries or comments concerning the proposed rulemaking action may be addressed to:

Name: Justin Sotelo
Address: Board of Behavioral Sciences
1625 North Market Blvd, Suite S200
Sacramento CA 95834
Telephone: 916-574-7836
Fax: 916-574-8625
Email: Justin_Sotelo@dca.ca.gov

The backup contact person is:

Name: Christy Berger
Address: Board of Behavioral Sciences
1625 North Market Blvd, Suite S200
Sacramento CA 95834
Telephone: 916-574-7830
Fax: 916-574-8625
Email: Christy_Berger@bbs.ca.gov

WEBSITE ACCESS

Materials regarding this proposal can be found at www.bbs.ca.gov.

TITLE 16. DEPARTMENT OF CONSUMER AFFAIRS

BOARD OF BEHAVIORAL SCIENCES NOTICE OF PROPOSED CHANGES IN THE REGULATIONS

NOTICE IS HEREBY GIVEN that the Board of Behavioral Sciences (Board) is proposing to take the ac-

tion described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at the Handlery Union Square Hotel, 351 Geary Street, San Francisco, CA, 94102 on **November 16, 2006 at 1:00 p.m.** Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Board at its office no later than 5:00 p.m. on **November 15, 2006** or must be received by the Board at the hearing.

The Board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposal substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by Sections 4980.35, 4980.40(f), 4980.60, and 4990.14 of the Business and Professions Code, and to implement, interpret, or make specific Sections 4980.35, 4980.40(f), 4980.42 through 4980.45, 4980.54, 4996.21, 4996.22, and 4996.23 of the Business and Professions Code, the Board is considering changes to Division 18 of Title 16 of the California Code of Regulations (CCR) as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Amend Section 1833.1 — Requirements for Supervisors

Amend Section 1870 — Requirements for Associate Clinical Social Worker Supervisors

Section 1833.1 sets forth the requirements for supervisors of MFT Interns and Trainees, including a requirement that the supervisor "...has practiced psychotherapy for at least two years in the five year period immediately preceding any supervision and has averaged at least five patient/client contact hours per week."

Section 1870 sets forth the requirements for supervisors of Associate Clinical Social Workers (ASW), including a requirement that the supervisor "...has practiced psychotherapy as part of his/her clinical experience for at least two years within the last five years immediately preceding supervision."

The Board currently interprets supervision of an MFT Intern, MFT Trainee, or ASW to be "psychotherapy" for the purposes of meeting the practice require-

ments in Sections 1833.1 and 1870. This proposal would make this interpretation explicit in the regulations. It would also delete the requirement that supervisors of MFT Interns or Trainees average five patient/client contact hours per week.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Section 17561 Requires Reimbursement: None

Business Impact: The Board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

The following studies/relevant data were relied upon in making the above determination: N/A

Impact on Jobs/New Businesses: The Board has determined that this regulatory proposal will not have any impact on the creation of jobs or businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Cost Impacts on Representative Private Persons or Businesses: The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs: None

EFFECT ON SMALL BUSINESS

The Board has determined that the proposed regulatory action would not affect small businesses. This proposal would add clarification to the Board's regulations pertaining to requirements for supervisors.

CONSIDERATION OF ALTERNATIVES

The Board must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposal described in this Notice.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

INITIAL STATEMENT OF REASONS AND INFORMATION

The Board has prepared an Initial Statement of Reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained upon request from the Contact Person listed below.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All of the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public inspection by contacting the Contact Person named below.

You may obtain a copy of the Final Statement of Reasons, once it has been prepared, by making a written request to the Contact Person named below (or by accessing the website listed below).

CONTACT PERSON

Inquiries or comments concerning the proposed rulemaking action may be addressed to:

Name: Justin Sotelo
Address: Board of Behavioral Sciences
1625 North Market Blvd, Suite S200
Sacramento CA 95834
Telephone: 916-574-7836
Fax: 916-574-8625
Email: Justin_Sotelo@dca.ca.gov

The backup contact person is:

Name: Christy Berger
Address: Board of Behavioral Sciences
1625 North Market Blvd, Suite S200
Sacramento CA 95834
Telephone: 916-574-7830
Fax: 916-574-8625
Email: Christy_Berger@bbs.ca.gov

WEBSITE ACCESS

Materials regarding this proposal can be found at www.bbs.ca.gov.

TITLE 17. CALIFORNIA AIR RESOURCES BOARD

NOTICE OF PUBLIC HEARING TO CONSIDER PROPOSED AMENDMENTS TO THE AREA DESIGNATIONS FOR STATE AMBIENT AIR QUALITY STANDARDS

The Air Resources Board (the Board or ARB) will conduct a public hearing at the time and place noted below to consider adoption of amendments to the regulations designating areas of California as attainment, nonattainment, nonattainment transitional, or unclassified for pollutants with State ambient air quality standards set forth in section 70200 of title 17, California Code of Regulations.

DATE: November 16, 2006
TIME: 9:00 a.m.
PLACE: California Public Utilities Commission
Auditorium
505 Van Ness Avenue
San Francisco, California 94102

This item will be considered at a two-day meeting of the Board, which will commence at 9:00 a.m., November 16, 2006, and may continue at 8:30 a.m., November 17, 2006. This item may not be considered until November 17, 2006. Please consult the agenda for the meeting, which will be available at least 10 days before November 16, 2006, to determine the day on which this item will be considered.

For individuals with sensory disabilities, this document is available in Braille, large print, audiocassette, or computer disk. Please contact ARB's Disability Coordinator at 916-323-4916 by voice or through the California Relay Services at 711, to place your request for disability services. If you are a person with limited English and would like to request interpreter services, please contact ARB's Bilingual Manager at 916-323-7053.

INFORMATIVE DIGEST OF PROPOSED ACTION AND POLICY STATEMENT OVERVIEW

Sections Affected: Proposed amendments to title 17, California Code of Regulations (CCR), sections 60201, 60202, 60205, and 60210.

Background: The Board is charged with the responsibility of adopting standards of ambient air quality for each air basin in consideration of the public health, safety, and welfare (Health and Safety Code (H&SC) section 39606). To date, the Board has adopted State ambient air quality standards (State Standards) for ten pollutants, set forth in CCR, title 17, section 70200. In addition,

H&SC section 39607(e) requires the Board to establish designation criteria which provide the basis for designating areas of California as attainment or nonattainment with respect to the State standards. The Board originally adopted designation criteria in 1989 and has modified them several times, most recently in January 2004. The designation criteria are set forth in CCR, title 17, sections 70300 through 70306, and appendices 1 through 4 thereof. Based on these designation criteria, H&SC section 39608 further requires ARB to establish and annually review area designations for State standards. During the annual review, ARB determines whether changes to the existing area designations are warranted, based on an evaluation of recent air quality data.

The ARB makes area designations for ten pollutants: ozone, suspended particulate matter (PM10), fine suspended particulate matter (PM2.5), carbon monoxide, nitrogen dioxide, sulfur dioxide, sulfates, lead, hydrogen sulfide, and visibility reducing particles. The area designations comprise CCR, title 17, sections 60200 through 60210. This year's review of the area designations is based on air quality data from 2003 through 2005. The proposed amendments include changes to existing area designations for ozone, carbon monoxide, PM10, and PM2.5. This is the first year the new State 8-hour ozone standard is being considered in the area designation process. It became effective May 17, 2006. The changes to the ozone designations listed below are primarily due to the addition of this new more health-protective standard. All the recommended changes are summarized below:

Ozone:

- ◆ Designate the Sonoma County portion of the North Coast Air Basin, Siskiyou County in the Northeast Plateau Air Basin, and San Luis Obispo County in the South Central Coast Air Basin as nonattainment. These areas are currently designated as attainment.
- ◆ Designate Inyo County in the Great Basin Valleys Air Basin as nonattainment. This area is currently designated as unclassified.
- ◆ Designate the Lake Tahoe Air Basin, as well as Lassen and Modoc Counties in the Northeast Plateau Air Basin, as unclassified. These areas are currently designated as attainment.

In addition, there are a number of changes for ozone that occur by operation of law. Under H&SC section 40925.5, reclassifications between nonattainment and nonattainment transitional status for ozone occur by operation of law. While these changes do not require formal action by the Board, ARB's designation criteria contain guidelines for confirming such changes. Therefore staff is proposing that the Board confirm the

changes and modify the designation regulations to reflect these automatic changes. In all cases, the areas are reverting back to nonattainment from nonattainment–transitional. These changes are summarized for completeness below.

- ◆ Change the designation of the North Central Coast Air Basin as nonattainment. This air basin is currently designated as nonattainment–transitional.
- ◆ Change the designation of the following Sacramento Valley Air Basin (SVAB) counties to nonattainment. They are currently designated as nonattainment–transitional.
 - ◆ Butte County
 - ◆ Shasta County
 - ◆ Solano County (portion in SVAB)
 - ◆ Sutter County
 - ◆ Tehama County
 - ◆ Yolo County
 - ◆ Yuba County

Carbon Monoxide:

- ◆ Designate Imperial County in the Salton Sea Air Basin as attainment. The City of Calexico is currently designated as nonattainment, while the remainder of Imperial County is designated as unclassified. Calexico was the last remaining nonattainment area for the State carbon monoxide (CO) standards. With this change, all areas of California will be attainment or unclassified for CO.

PM10:

- ◆ Designate the Sonoma County portion of the North Coast Air Basin as attainment. This area is currently designated as nonattainment.

PM2.5:

- ◆ Designate San Luis Obispo County in the South Central Coast Air Basin as attainment. This area is currently designated as unclassified.

COMPARABLE FEDERAL REGULATIONS

There are no comparable federal or local regulations that address area designations for the California State standards.

AVAILABILITY OF DOCUMENTS AND CONTACT PERSONS

The Board staff has prepared a Staff Report: Initial Statement of Reasons (ISOR) for the proposed regulatory action, which includes a summary of the economic and environmental impacts of the proposal. The Staff

Report is entitled: “Initial Statement of Reasons for Proposed Rulemaking: 2006 Area Designations and Maps.”

Copies of the ISOR and the full text of the proposed regulatory language, in underline and strike–out format to allow for comparison with the existing regulations, may be accessed on ARB’s website listed below, or may be obtained from the Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, 1st Floor, Sacramento, California 95814, (916) 322–2990 at least 45 days prior to the scheduled hearing on November 16, 2006.

Upon its completion, the Final Statement of Reasons (FSOR) will be available and copies may be requested from the agency contact persons in this notice, or may be accessed on ARB’s website listed below.

Inquires concerning the substance of the proposed regulations may be directed to the designated agency contact persons: Theresa Najita, Air Pollution Specialist, Particulate Matter Analysis Section, at (916) 322–7297 or via email at tnajita@arb.ca.gov, or Sylvia Morrow, Manager, Particulate Matter Analysis Section, (916) 324–7163 or via email at smorrow@arb.ca.gov.

Further, the agency representative and designated back–up contact persons to whom nonsubstantive inquiries concerning the proposed administrative action may be directed are Artavia Edwards, Manager, Board Administration & Regulatory Coordination Unit, (916) 322–6070, or Alexa Malik, Regulations Coordinator, (916) 322–4011. The Board has compiled a record for this rulemaking action, which includes all the information upon which the proposal is based. This material is available for inspection upon request to the contact persons.

This notice, the ISOR, and all subsequent regulatory documents, including the FSOR, when completed, are available on ARB Internet site for this rulemaking at <http://www.arb.ca.gov/regact/area06/area06.htm>.

COSTS TO PUBLIC AGENCIES AND TO BUSINESSES AND PERSONS AFFECTED

The determinations of the Board’s Executive Officer concerning the costs or savings necessarily incurred by public agencies and private persons and businesses in reasonable compliance with the proposed regulations are presented below.

The proposed amendments to the area designation regulations do not contain any requirements for action. Subsequent requirements for action may result after additional steps, such as plan preparation and approval, are taken. The area designations are simply labels that describe the healthfulness of the air quality in each area. Because these regulations by themselves contain no requirements for action, they have no direct economic im-

pact, and the following general determinations are appropriate.

Pursuant to Government Code sections 11346.5(a)(5) and 11346.5(a)(6), the Executive Officer has determined that the proposed regulatory action will not create costs or savings to any state agency or in federal funding to the state, costs or mandate to any local agency or school district whether or not reimbursable by the state pursuant to part 7 (commencing with section 17500), division 4, title 2 of the Government Code, or other nondiscretionary cost or savings to state or local agencies.

In developing this regulatory proposal, ARB staff evaluated the potential economic impacts on representative private persons or businesses. The ARB is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

The Executive Officer also has made an initial determination that the proposed regulatory action will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states, or on representative private persons.

In accordance with Government Code section 11346.3, the Executive Officer has determined that the proposed regulatory action will not affect the creation or elimination of jobs within the State of California, the creation of new businesses or elimination of existing businesses within the State of California, or the expansion of businesses currently doing business within the State of California. A detailed assessment of the economic impacts of the proposed regulatory action can be found in the ISOR.

The Executive Officer has also determined, pursuant to title 1, CCR, section 4, that the proposed regulatory action will not affect small businesses because the proposed regulatory action does not contain any requirements for action.

Before taking final action on the proposed regulatory action, the Board must determine that no reasonable alternative considered by the Board or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

SUBMITTAL OF COMMENTS

The public may present comments relating to this matter orally or in writing at the hearing, and in writing

or by email before the hearing. To be considered by the Board, written submissions not physically submitted at the hearing must be **received no later than 12:00 noon, November 15, 2006**, and addressed to the following:

Postal mail: Clerk of the Board, Air Resources Board
1001 I Street,
Sacramento, California 95814

Electronic submittal: <http://www.arb.ca.gov/lispub/comm/bclist.php>

Facsimile submittal: (916) 322-3928

The Board requests but does not require that 30 copies of any written statement be submitted and that all written statements be filed at least 10 days prior to the hearing so that ARB staff and Board Members have time to fully consider each comment. The Board encourages members of the public to bring to the attention of staff in advance of the hearing any suggestions for modification of the proposed regulatory action.

STATUTORY AUTHORITY AND REFERENCES

This regulatory action is proposed under that authority granted in H&SC sections 39600, 39601, 39606, 39608, and 40925.5. This action is proposed to implement, interpret, and make specific sections 39606, 39607, 39608, and 40925.5 of the H&SC.

HEARING PROCEDURES

The public hearing will be conducted in accordance with the California Administrative Procedure Act, title 2, division 3, part 1, chapter 3.5 (commencing with section 11340) of the Government Code.

Following the public hearing, the Board may adopt the regulatory language as originally proposed, or with non substantial or grammatical modifications. The Board may also adopt the proposed regulatory language with other modifications if the text as modified is sufficiently related to the originally proposed text that the public was adequately placed on notice that the regulatory language as modified could result from the proposed regulatory action; in such event, the full regulatory text, with the modifications clearly indicated, will be made available to the public, for written comment, at least 15 days before it is adopted.

The public may request a copy of the modified regulatory text from ARB's Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, 1st Floor, Sacramento, California 95814, (916) 322-2990.

TITLE 17. CALIFORNIA AIR RESOURCES BOARD

NOTICE OF PUBLIC HEARING TO CONSIDER ADOPTION OF PROPOSED AMENDMENTS TO THE CALIFORNIA CONSUMER PRODUCTS REGULATIONS

The Air Resources Board (Board or ARB) will conduct a public hearing at the time and place noted below to consider adoption of amendments to: (1) the Regulation for Reducing Volatile Organic Compound (VOC) Emissions from Consumer Products; and (2) the Regulation for Reducing the Ozone Formed from Aerosol Coating Product Emissions.

DATE: November 16, 2006

TIME: 9:00 a.m.

PLACE: Public Utilities Commission
Auditorium
505 Van Ness Avenue
San Francisco, California 94102

This item will be considered at a two day meeting of the Board, which will commence at 9:00 a.m., November 16, 2006, and may continue at 8:30 a.m., November 17, 2006. This item may not be considered until November 17, 2006. Please consult the agenda for the meeting, which will be available at least 10 days before November 16, 2006, to determine the day on which this item will be considered.

For individuals with sensory disabilities, this document is available in Braille, large print, audiocassette or computer disk. Please contact ARB's Disability Coordinator at 916-323-4916 by voice or through the California Relay Services at 711, to place your request for disability services. If you are a person with limited English and would like to request interpreter services, please contact ARB's Bilingual Manager at 916-323-7053.

INFORMATIVE DIGEST OF PROPOSED ACTION AND POLICY STATEMENT OVERVIEW

Sections Affected: Proposed amendments to sections 94508, 94509, 94510, 94513, and 94523 to title 17, California Code of Regulations (CCR). Non-substantial or solely grammatical changes are also proposed to sections 94507, 94511, 94512, 94514, 94515, 94516, and 94517.

Background

Section 41712 of the California Health and Safety Code requires ARB to adopt regulations to achieve the maximum feasible reduction in VOC emissions from consumer products. As part of the regulatory process,

ARB must determine that adequate data exist for it to adopt the regulations. ARB must also determine that the regulations are technologically and commercially feasible, and necessary to carry out the Board's responsibilities under Division 26 of the Health and Safety Code. In addition, Health and Safety Code section 41712(c) provides that no regulation shall be adopted which requires the elimination of a product form.

Pursuant to Health and Safety Code section 41712, ARB has adopted several regulations which are collectively referred to as the "California Consumer Products Regulations." These regulations include: (1) the Regulation for Reducing VOC Emissions from Consumer Products (the "Consumer Products Regulation," title 17, CCR, sections 94507-94517), and (2) the Regulation for Reducing the Ozone Formed from Aerosol Coating Product Emissions (the "Aerosol Coatings Regulation," title 17, CCR, section 94520-94528).

On November 15, 1994, ARB adopted the California State Implementation Plan for Ozone (1994 SIP). The SIP serves as California's overall plan for attaining the federal ambient air quality standard for ozone. Achieving additional VOC reductions from consumer products is an important element of the SIP and is necessary to attain state and federal air quality standards.

Description of Proposed Regulatory Action

The proposed regulatory action would amend the existing Consumer Products Regulation by adding and modifying product category definitions and by establishing new VOC limits for 16 product categories. For some of the categories, separate VOC limits are specified for different product forms. Most of the new or modified VOC limits would become effective on December 31, 2008. The remainder would become effective on December 31, 2010.

In addition, various other modifications and clarifications are proposed to the existing regulatory language. These include amending several definitions, amending the VOC limit of "Nail Polish Remover," and re-evaluating the VOC limit, effective date, and category definition for "Electronic Cleaner." A number of minor changes are also proposed to various regulatory provisions in order to correct errors or improve clarity. In addition, an amendment is proposed to section 94523 (Exemptions) of the Aerosol Coatings Regulation. This amendment would clarify that several product categories are exempt from regulation under the Aerosol Coatings Regulation.

The proposed regulatory action would also prohibit the use of three toxic air contaminants — methylene chloride, perchloroethylene, and trichloroethylene — in the regulations on "Bathroom and Tile Cleaner," "Construction, Panel, and Floor Covering Adhesive," "General Purpose Cleaner," and "Oven Cleaner."

In addition to the proposed actions described above, the Board may consider whether to exempt tertiary-Butyl acetate (tBac) from the definition of "Volatile Organic Compound." The Board may also consider whether an exemption for this compound should be accompanied by provisions limiting or prohibiting its use in consumer products.

COMPARABLE FEDERAL REGULATIONS

The U.S. Environmental Protection Agency (U.S. EPA) has promulgated a national consumer products rule under section 183(e) of the federal Clean Air Act: *National Volatile Organic Compound Emission Standards for Consumer Products*. (40 CFR Part 59, subpart C, sections 59.201 et seq.) The rule specifies VOC limits for a number of consumer product categories, and is similar in format to ARB's consumer products regulation. However, there are significant differences between the rules. U.S. EPA's rule applies nationwide to consumer product manufacturers, importers and distributors (but not retailers), while the ARB regulation applies to any person (including retailers) who "sells, supplies, offers for sale, or manufactures consumer products for use in the State of California." U.S. EPA's rule does not regulate a number of product categories that are currently regulated under the ARB regulation. For the categories that are regulated under both rules, many of ARB's limits are more stringent than U.S. EPA's limits. All of the VOC limits in U.S. EPA's rule have an effective date of December 10, 1998, whereas the VOC limits in the ARB regulation and the proposed amendments are phased in from 1993 to 2009. Finally, U.S. EPA's rule has an unlimited "sell-through" period for noncomplying products manufactured before the effective date of the limits, whereas California law allows a three year sell-through period.

AVAILABILITY OF DOCUMENTS AND AGENCY CONTACT PERSONS

The Board staff has prepared a Staff Report: Initial Statement of Reasons (ISOR) for the proposed action, which includes the rationale for the proposed amendments and a summary of the potential environmental and economic impacts. Copies of the ISOR and the full text of the proposed regulatory language, in strikeout/underline format to allow for comparison with the existing regulations, may be obtained from the Board's Public Information Office, Air Resources Board, 1001 I Street, Visitor and Environmental Services Center, 1st Floor, Sacramento, California 95814, (916) 322-2990, at least 45 days prior to the scheduled hearing (November 16, 2006). These documents are also available on

ARB's website listed below, or by contacting the agency contact persons listed below.

Upon its completion, the Final Statement of Reasons (FSOR) will be available and copies may be requested from the agency contact persons identified below, or may be accessed on the ARB's website listed below.

Inquiries concerning the substance of the proposed regulatory action may be directed to Mr. David Mallory, Manager, Measures Development Section, Stationary Source Division, at (916) 445-8316, email dmallory@arb.ca.gov, or Trish Johnson, Air Pollution Specialist, at (916) 445-3365, email tjohnson@arb.ca.gov.

Further, the agency representative and designated back-up contact persons to whom non-substantive inquiries concerning the proposed administrative action may be directed are Artavia Edwards, Manager, Board Administration and Regulatory Coordination Unit, (916) 322-6070, or Alexa Malik, Regulations Coordinator, (916) 322-4011. The Board staff has compiled a record for this rulemaking action, which includes all information upon which the proposal is based. This material is available for inspection upon request to the contact persons.

This notice, the ISOR, and all subsequent regulatory documents, including the FSOR, when completed, are available on the ARB Internet site for this rulemaking at <http://www.arb.ca.gov/consprod/regact/cpwg2006/cpwg2006.htm>

COSTS TO PUBLIC AGENCIES AND TO BUSINESSES AND PERSONS AFFECTED

The determinations of the ARB Executive Officer concerning the cost or savings necessarily incurred by public agencies and private persons and business in reasonable compliance with the proposed regulatory action are presented below.

The ARB Executive Officer has determined that the proposed regulatory action will not create costs or savings, as defined in Government Code section 11346.5(a)(5) and 11346.5(a)(6), to any State agency or in federal funding to the State, costs or mandate to any local agency or school district whether or not reimbursable by the State pursuant to Part 7 (commencing with section 17500), Division 4, title 2 of the Government Code, or other nondiscretionary cost or savings to state or local agencies.

In developing this regulatory proposal, ARB staff evaluated the potential economic impacts on representative private persons and businesses. The Executive Officer has initially determined that there will be a potential cost impact on private persons or businesses directly affected as a result of the proposed regulatory action. As explained in the ISOR, the proposed amend-

ments may have a significant adverse impact on some individual businesses but the overall statewide impacts are not expected to be significant.

The Executive Officer has made an initial determination that the proposed regulatory action will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states, or on representative private persons.

In accordance with Government Code section 11346.3, the Executive Officer has initially determined that the proposed amendments should have minimal impacts on the creation or elimination of jobs within the State of California, minimal impacts on the creation of new businesses and the elimination of existing businesses within the State of California, and minimal impacts on the expansion of businesses currently doing business within the State of California. A detailed assessment of the economic impacts of the proposed amendments can be found in the ISOR.

The Board's Executive Officer has also determined, pursuant to title 1, CCR, section 4, that the proposed regulatory action will affect small businesses.

Before taking final action on the proposed regulatory action, ARB must determine that no reasonable alternative considered by the agency or that has otherwise been identified and brought to the attention of the agency would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons or businesses than the proposed action.

SUBMITTAL OF COMMENTS

The public may present comments relating to this matter orally or in writing at the hearing, and in writing or by e-mail before the hearing. To be considered by the Board, written submissions not physically submitted at the hearing must be received no later than **12:00 noon, November 15, 2006**, and addressed to the following:

Postal mail: Clerk of the Board, Air
Resources Board
1001 I Street,
Sacramento, California 95814

Electronic submittal: <http://www.arb.ca.gov/lispub/comm/bclist.php>

Facsimile submittal: (916) 322-3928

The Board requests but does not require that 30 copies of any written statement be submitted and that all written statements be filed at least 10 days prior to the hearing so that ARB staff and Board Members have time to fully consider each comment. The Board encourages members of the public to bring to the attention

of staff in advance of the hearing any suggestions for modification of the proposed regulatory action.

STATUTORY AUTHORITY AND REFERENCES

This regulatory action is proposed under the authority granted to the ARB in sections 39600, 39601, 41511, and 41712 of the Health and Safety Code. This action is proposed to implement, interpret, or make specific sections 39002, 39600, 40000, 41511, and 41712 of the Health and Safety Code.

HEARING PROCEDURES

The public hearing will be conducted in accordance with the California Administrative Procedure Act, title 2, division 3, part 1, chapter 3.5 (commencing with section 11340) of the Government Code.

Following the public hearing, the Board may adopt the regulatory language as originally proposed, or with non-substantial or grammatical modifications. The Board may also adopt the proposed regulatory language with other modifications if the text as modified is sufficiently related to the originally proposed text that the public was adequately placed on notice that the regulatory language as modified could result from the proposed regulatory action; in such event the full regulatory text, with the modifications clearly indicated, will be made available to the public, for written comment, at least 15 days before it is adopted. Modifications could include, but would not necessarily be limited to, exempting tBac from the definition of "Volatile Organic Compound," and potentially accompanying such an exemption with provisions limiting or prohibiting its use in consumer products.

The public may request a copy of the modified regulatory text from the ARB's Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, 1st Floor, Sacramento, California 95814, (916) 322-2990.

TITLE 17. CALIFORNIA AIR RESOURCES BOARD

NOTICE OF PUBLIC HEARING TO CONSIDER AMENDMENTS TO THE AB 2588 AIR TOXICS "HOT SPOTS" EMISSION INVENTORY CRITERIA AND GUIDELINES REGULATION

The Air Resources Board (the Board or ARB) will conduct a public hearing at the time and place noted below to consider adoption of amendments to the AB 2588 Air Toxics "Hot Spots" Emission Inventory Criteria and Guidelines (Guidelines) Regulation.

DATE: November 16, 2006
 TIME: 9:00 a.m.
 PLACE: California Public Utilities Commission
 Auditorium
 505 Van Ness Avenue
 San Francisco, California 94102

This item will be considered at a two-day meeting of the Board, which will commence at 9:00 a.m., November 16, 2006, and may continue at 8:30 a.m., November 17, 2006. This item may not be considered until November 17, 2006. Please consult the agenda for the meeting, which will be available at least 10 days before November 16, 2006, to determine the day on which this item will be considered.

For individuals with sensory disabilities, this document is available in Braille, large print, audiocassette, or computer disk. Please contact ARB's Disability Coordinator at (916) 323-4916 by voice or through the California Relay Services at 711, to place your request for disability services. If you are a person with limited English and would like to request interpreter services, please contact ARB's Bilingual Manager at (916) 323-7053.

INFORMATIVE DIGEST OF PROPOSED ACTION AND POLICY STATEMENT OVERVIEW

Sections Affected

Proposed amendment to title 17, California Code of Regulations (CCR), section 93300.5 and the AB 2588 Air Toxics "Hot Spots" Emission Inventory Criteria and Guidelines Report (including appendices), incorporated by reference in title 17, CCR, section 93300.5, last amended on May 15, 1997.

Background

The Air Toxics "Hot Spots" Information and Assessment Act ("Hot Spots" Act or Program; AB 2588; Stat. 1987, ch 1252; Health and Safety Code Sections 44300 through 44394) provided one of the fundamental building blocks of California's air toxics program. Subsequent legislation (SB 1731) in 1992 established a mechanism to reduce significant risks to health protective levels. The "Hot Spots" Act, as amended, requires the Board to compile and maintain a list of substances presenting a threat to public health. Facilities manufacturing, formulating, using, or releasing any of the listed substances must prepare an emissions inventory plan, implement the plan, and report to the air quality management district or air pollution control district (district). Facilities with higher prioritization scores, based on the emission inventory, must prepare, and submit to the district, a risk assessment in accordance with the guidelines established by the Office of Environmental

Health Hazard Assessment (OEHHA). Upon approval of the health risk assessment, the operator of the facility must provide notice to exposed persons of the results of the health risk assessment. In addition, if the risk assessment identifies a significant risk, the facility operator must conduct an airborne toxic risk reduction audit, develop a plan to implement risk reduction measures, and implement the plan to reduce the risk below the significant risk level.

The Emission Inventory Criteria and Guidelines Report, including its appendices ("Guidelines Regulation," which is incorporated by reference in Title 17, California Code of Regulations, Section 93300.5) provides direction and criteria to facilities on how to compile and submit air toxics emission data required by the "Hot Spots" Program. The Guidelines Regulation describes those facilities that must comply, outlines procedures for preparing updates to the emission inventories and reporting requirements for specific classes of facilities whose emissions of all criteria pollutants did not exceed ten tons per year, and lists substances that must be inventoried.

The objective of the "Hot Spots" Act is to collect emission data on air toxics emitted in California so that nearby residents are notified of significant risks associated with those facilities posing unacceptable localized health risks, and that the facilities take steps to reduce those risk to health protective levels.

After the last update to the Guidelines Regulation in 1997, much has happened with respect to our understanding of toxic air pollution. Most notably, diesel particulate matter (diesel PM) was listed as a toxic air contaminant (TAC) by ARB in 1998 after an extensive review and evaluation of the scientific literature by OEHHA. Diesel PM is the most important TAC and contributes over 70 percent of the estimated risk from air toxics today. In September 2000, ARB approved the "Risk Reduction Plan to Reduce Particulate Matter Emissions from Diesel-Fueled Engines and Vehicles" (Diesel Risk Reduction Plan) which initiated a multi-year effort to reduce exposures from diesel PM throughout the State. The Diesel Risk Reduction Plan established the goal of reducing diesel PM emissions and the associated cancer risk by 85 percent in 2020. Pursuant to the Diesel Risk Reduction Plan, ARB has adopted several air toxic control measures to reduce diesel PM, including the "Airborne Toxic control Measure for Stationary Compression Ignition Engines" (stationary engine ATCM), which was adopted in 2004. In addition, health effects values for some toxic air pollutants have been updated and risk assessment methodologies have been adopted by OEHHA.

Staff is proposing amendments to the Guidelines Regulation to reflect these developments described above and to harmonize to the extent possible, the "Hot

Spots” Program with actions taken by ARB to address diesel engines.

Description of the Proposed Regulatory Action

The proposed amendments to the Guidelines Regulation incorporate our basic modifications to the Guidelines Regulation:

- Create new Section XI that specifies “Hot Spots” requirements for diesel engines that harmonize with the stationary engine ATCM and proposed amendments to the ATCM to incorporate requirements for in-use diesel engines used in agricultural operations;
- Augment the existing 3,000 gallon diesel fuel reporting threshold with an additional 20 engine hours per year total at a facility reporting threshold for diesel engines;
- Incorporate by reference the OEHHA Health Risk Assessment Guidelines and new health values, and update the list of substances; and
- Add definitions for diesel engines, emergency operations and other terms that are consistent with the ATCM for stationary diesel engines.

By aligning the “Hot Spots” reporting requirements for stationary diesel engines in Section XI of the Guidelines Regulation, we are leveraging the inventory reporting and risk reduction activities that are already occurring under the stationary engine ATCM. Including definitions related to diesel engines ensures clarity in the procedures and consistency with the existing ATCM for stationary diesel engines. Using the same definitions in multiple regulations simplifies compliance with requirements. In addition, by aligning the “Hot Spots” requirements with the proposed amendments to the stationary engine ATCM to incorporate requirements for in-use diesel engines used in agricultural engines, we are ensuring that operators of agricultural engines will not be subject to duplicative requirements and that the risk from all engines is adequately addressed.

The new reporting threshold is needed to ensure that emissions from diesel engines that result in potential exposures to nearby receptors are brought into the “Hot Spots” Program and are properly evaluated and addressed under the “Hot Spots” Program. The current 3,000 gallon diesel fuel reporting threshold is not health protective, given the cancer potency for diesel PM.

The proposed amendments also incorporate the OEHHA Health Risk Assessment Guidance Manual and health values, which have already gone through a public process and were adopted by OEHHA in 2003. The ARB staff is also proposing amendments to the Guidelines Regulation which will update the list of substances required to be reported from facilities subject to the program. Nine new substances are being proposed

for inclusion in the “Hot Spots” list of substances for which emissions must be quantified. Minor changes to existing substances are also being proposed, such as correction to Chemical Abstracts Service numbers, or correction of the chemical name.

In addition, there are several miscellaneous changes to the Guidelines Regulation, including definitions, reporting formats and procedures for screening health risk assessments, which align “Hot Spots” procedures with existing district program needs.

COMPARABLE FEDERAL REGULATIONS

The “Hot Spots” Act established an air quality program unique to the State of California. At this time, no equivalent federal requirement targets “Hot Spots” facilities. Accordingly, there is no conflict or duplication between the Guidelines Regulation and current federal regulations.

AVAILABILITY OF DOCUMENTS AND AGENCY CONTACT PERSONS

The Board staff has prepared a Staff Report: Initial Statement of Reasons (ISOR) for the proposed regulatory action, which includes a summary of the economic and environmental impacts of the proposal. The report is entitled: “Initial Statement of Reasons for Proposed Rulemaking for the Proposed Amendments to the Emission Inventory Criteria and Guidelines Report for the Air Toxics “Hot Spots” Program.”

Copies of the ISOR and the full text of the proposed regulatory language, in underline and strikeout format to allow for comparison with the existing regulations, may be accessed on the ARB’s web site listed below, or may be obtained from the Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, 1st Floor, Sacramento, CA 95814, (916) 322–2990 at least 45 days prior to the scheduled hearing on **November 16, 2006**.

Upon its completion, the Final Statement of Reasons (FSOR) will be available and copies may be requested from the agency contact persons in this notice, or may be accessed on the ARB’s web site listed below.

Inquiries concerning the substance of the proposed regulation may be directed to the designated agency contact persons, Dale Shimp, Manager of the Environmental Justice Section, at (916) 324–7156 or by email at dshimp@arb.ca.gov, or Chris Halm, Air Pollution Specialist (916) 323–4865, chalm@arb.ca.gov.

Further, the agency representative and designated back-up contact person to whom nonsubstantive inquiries concerning the proposed administrative action may be directed to Alexa Malik, Regulations Coordinator, (916) 322–4011. The Board has compiled a record for

this rulemaking action, which includes all the information upon which the proposal is based. This material is available for inspection upon request to the contact persons.

This notice, the ISOR and all subsequent regulatory documents, including the FSOR, when completed, are available on the ARB Internet site for this rulemaking at www.arb.ca.gov/regact/hotspot06/hotspot06.htm

COSTS TO PUBLIC AGENCIES AND TO BUSINESSES AND PERSONS AFFECTED

The determinations of the Board's Executive Officer concerning the costs or savings necessarily incurred by public agencies and private persons and businesses in reasonable compliance with the proposed amendments are presented below.

The Executive Officer has determined that the proposed regulatory action will create costs, as defined in Government Code section 11346.5(a)(6), to State agencies. The costs to ARB to implement and administer the Air Toxics "Hot Spots" Program, including the amended Guidelines Regulation, will be recovered by fees authorized by H&SC section 44380 and sections 90700–90705 of title 17, CCR. Pursuant to Government Code sections 11346.5(a)(5) and 11346.5(a)(6), the Executive Officer has determined that the proposed regulatory action will not create costs or savings in the federal funding to any state agency or program, or impose other nondiscretionary costs or savings to local agencies, except as described below.

The Executive Officer has determined that the proposed amendments will impose a mandate upon and create costs to the districts with jurisdiction over facilities subject to the "Hot Spots" Act. However, the mandate does not require state reimbursement to the districts pursuant to Government Code sections 17500 et seq., and section 6 of Article XIII B of the California Constitution because the districts have the authority to levy fees sufficient to pay for the mandated Program (H&SC section 44380). These fees are intended to recover the costs of district implementation of the Air Toxics "Hot Spots" Program, including compliance with the proposed amendments.

The Executive Officer has determined that the proposed amendments will impose a mandate upon and create costs to some public agencies that manage entities such as publicly owned treatment works or correctional facilities. These facilities will be impacted by the proposed amendments to the extent they operate diesel engines and the risks are above district threshold levels. The costs of complying with the Regulation are not reimbursable within the meaning of section 6, article XIII B, California Constitution and Government Code

sections 17500 et seq., because these facilities are authorized to levy service charges to cover the costs associated with the mandated Program.

In developing this regulatory proposal, ARB staff evaluated the potential economic impacts on public and private facilities. ARB staff estimates that the cost for compliance with the proposed amendments to the Guidelines Regulation to be approximately 8.1 million dollars. This corresponds to about 2 million dollars annually for the years 2007–2010. This cost, which is based on 2006 dollars, represents the costs associated with compliance with the "Hot Spots" program such as inventory reporting, health risk assessment, State and district fees, and risk reduction.

Facilities will be potentially subject to "Hot Spots" State and district fees if their cancer risk exceeds 1 per million. Because the ATCM satisfies many of the "Hot Spots" requirements, the minimum State fee of \$35 will be assessed for facilities subject to "Hot Spots" with only diesel engines, like schools, hospitals, and amusement parks. Facilities already subject to "Hot Spots" fees are still subject to the same State fee rates in section 90700–90705, title 17, California Code of Regulations, which range from \$67 to \$6,363.

California businesses are affected by the proposed annual cost of compliance with the amendments to the extent that the implementation of the proposed amendments reduces their profitability. Overall, most affected businesses will be able to absorb the costs of the proposed amendments with no significant adverse impacts on their profitability. This finding is based on the staff's analysis of the estimated change in "return on owner's equity" (ROE). The analysis found that the overall change in ROE to be negligible. As the proposed amendments would not alter significantly the profitability of most businesses, staff does not expect a noticeable change in employment, business creation, elimination, or expansion, and business competitiveness in California.

Therefore, the Executive Officer has made an initial determination that the proposed regulatory action will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other state, or on representative private persons.

In accordance with Government Code section 11346.3, the Executive Officer has determined that the proposed regulatory action will not affect the creation or elimination of jobs within the State of California, the creation of new businesses or elimination of existing businesses within the State of California, or the expansion of businesses currently doing business within the State of California. A detailed assessment of the economic impacts of the proposed regulatory action can be found in the ISOR.

The Executive Officer has also determined, pursuant to title 1, CCR, section 4, that the proposed regulatory action will affect small businesses.

In accordance with Government Code sections 11346.3(c) and 11346.5(a)(11), the Executive Officer has found that the reporting requirements of the regulation which apply to businesses are necessary for the health, safety, and welfare of the people of the State of California.

Before taking final action on the proposed regulatory action, the Board must determine that no reasonable alternative considered by the agency or that has otherwise been identified and brought to the attention of the agency would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

SUBMITTAL OF COMMENTS

The public may present comments relating to this matter orally or in writing at the hearing, and in writing or by e-mail before the hearing. To be considered by the Board, written submissions not physically submitted at the hearing must be received **no later than 12:00 noon, November 15, 2006**, and addressed to the following:

Postal mail: Clerk of the Board,
Air Resources Board
1001 I Street, Sacramento,
California 95814

Electronic submittal: <http://www.arb.ca.gov/lispub/comm/bclist.php>

Facsimile submittal: (916) 322-3928

The Board requests but does not require that 30 copies of any written statement be submitted and that all written statements be filed at least 10 days prior to the hearing so that ARB staff and Board Members have time to fully consider each comment. The Board encourages members of the public to bring to the attention of staff in advance of the hearing any suggestions for modification of the proposed regulatory action.

Additionally, the Board requests but does not require, that persons who submit written comments to the Board reference the title of the proposal in their comments to facilitate review.

STATUTORY AUTHORITY AND REFERENCES

This regulatory action is proposed under that authority granted in Health and Safety Code, sections 39600, 39601, and 44342. This action is proposed to implement, interpret and make specific sections 41805.5, 44320, 44321, 44322, 44323, 44324, 44325, 44340, 44341, 44342, 44343, 44344, 44344.4, 44344.5,

44344.7, 44346, 44360, and 44365 of the Health and Safety Code. Section 6254.7 of the Government Code, and 17, CCR, Sections 90700-90705, Appendix A.

HEARING PROCEDURES

The public hearing will be conducted in accordance with the California Administrative Procedure Act, title 2, division 3, part 1, chapter 3.5 (commencing with section 11340) of the Government Code.

Following the public hearing, the Board may adopt the regulatory language as originally proposed, or with nonsubstantial or grammatical modifications. The Board may also adopt the proposed regulatory language with other modifications if the text as modified is sufficiently related to the originally proposed text that the public was adequately placed on notice that the regulatory language as modified could result from the proposed regulatory action; in such event the full regulatory text, with the modifications clearly indicated, will be made available to the public, for written comment, at least 15 days before it is adopted.

The public may request a copy of the modified regulatory text from ARB's Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, 1st Floor, Sacramento, CA 95814, (916) 322-2990. The document will also be posted on the web site listed above.

TITLE 17. CALIFORNIA AIR RESOURCES BOARD

NOTICE OF PUBLIC HEARING TO CONSIDER PROPOSED AMENDMENTS TO THE STATIONARY DIESEL ENGINE CONTROL MEASURE

The Air Resources Board (Board or ARB) will conduct a public hearing at the time and place noted below to consider adoption of amendments to the Airborne Toxic Control Measure for Stationary Compression Ignition Engines (Stationary Diesel Engine ATCM). The primary purpose of the proposed amendments is to establish regulatory requirements for in-use stationary diesel engines used in agriculture (agricultural engines). Other amendments are being proposed to clarify and streamline implementation of the Stationary Diesel Engine ATCM.

DATE: November 16, 2006

TIME: 9:00 a.m.

PLACE: Public Utilities Commission
Auditorium
505 Van Ness Avenue
San Francisco, California 94102

This item will be considered at a two-day meeting of the Board, which will commence at 9:00 a.m., November 16, 2006, and may continue at 8:30 a.m., November 17, 2006. This item may not be considered until November 17, 2006. Please consult the agenda for the meeting, which will be available at least 10 days before November 16, 2006, to determine the day on which this item will be considered.

For individuals with sensory disabilities, this document is available in Braille, large print, audiocassette or computer disk. Please contact ARB's Disability Coordinator at (916) 323-4916 by voice or through the California Relay Services at 711, to place your request for disability services. If you are a person with limited English and would like to request interpreter services, please contact ARB's Bilingual Manager at (916) 323-7053.

INFORMATIVE DIGEST OF PROPOSED ACTION AND POLICY STATEMENT OVERVIEW

Sections Affected: Proposed adoption of title 17, California Code of Regulations (CCR), section 93115.1 through 93115.15 inclusive to supersede the requirements set forth in title 17, CCR, section 93115, as amended September 9, 2005, and amending existing title 17, CCR, section 93115.

Background: The California Toxic Air Contaminant Identification and Control Program, established under California law by Assembly Bill 1807 (Stats. 1983, Ch. 1047) and set forth in Health and Safety Code sections 39560-39675, requires ARB to identify and control toxic air contaminants (TAC) in California. The Board identified particulate matter from diesel-fueled engines (diesel PM) as a TAC in August 1998. In October 2000, ARB staff published the diesel PM control needs assessment, Risk Reduction Plan to Reduce Particulate Matter Emissions from Diesel-Fueled Engines and Vehicles (Diesel Risk Reduction Plan). In the Diesel Risk Reduction Plan, ARB staff recommended control measures to reduce diesel PM from a variety of diesel-fueled vehicles and engines, including in-use agricultural engines.

In October 2001, the Office of Environmental Health Hazard Assessment (OEHHA) identified diesel PM among the top priority pollutants affecting children's health in accordance with The Children's Environmental Health Protection Act (Stats. 1999, Ch. 731).

Stationary Diesel Engine ATCM for Stationary Compression Ignition Engines

At a public hearing on February 26, 2004, the Board approved the Stationary Diesel Engine ATCM in order to reduce diesel PM emissions from new and in-use stationary diesel engines. Among other provisions, the Stationary Diesel Engine ATCM established emission

standards for new agricultural engines, but specifically exempted in-use agricultural engines. In-use agricultural engines were exempted because the State Legislature was considering Senate Bill 700 (Stats. 2003, Ch. 479) to determine the regulatory/permitting status of agricultural emission sources, such as engines. Senate Bill 700 was subsequently enacted into law and removed the long-standing permit exemption for agricultural equipment. Additionally, the bill set forth local air district requirements and guidance for regulating agricultural emission sources. At public hearings in March 2005 and May 2005, the Board approved amendments to the regulation that established interim and final standards for new stationary agricultural engines.

In-Use Agricultural Engines Investigation

During the public hearing on February 26, 2004, the Board directed ARB staff to investigate the opportunities and challenges associated with replacing in-use agricultural engines with electric motors in order to reduce diesel PM emissions.

In March 2004, ARB staff began investigating and discussing electrification and other in-use agricultural engine regulatory measures with representatives from the agricultural industry, agricultural equipment suppliers, engine manufacturers, engine distributors/dealers, electric utilities, fuel suppliers, local air districts, environmental and community groups, and others.

From an air quality perspective, electrification of stationary diesel agricultural engines would be highly desirable because it virtually eliminates all emissions. There are now two utility incentive programs in operation to assist with electrification: Pacific Gas and Electric's Agricultural Internal Combustion Engine or AG-ICE Conversion Incentive Program and Southern California Edison's Time-of-Use Pumping Agricultural Internal Combustion Engine or TOU-PA-ICE Program. These programs provide reduced electricity rates and electrical line and service extension allowances for growers who voluntarily replace stationary diesel agricultural irrigation pump engines with electric motors. Despite these incentive programs, cost continues to be a significant obstacle to electrification for many farmers. Staff also found that farmers' selection of irrigation pump equipment and preferred power source is a site-specific, case-by-case decision that depends on many variables including irrigation method and schedule, availability of surface water, well pumping depth, quantity of water needed, fuel costs, electricity costs, and electrical infrastructure proximity and adequacy. As a result, additional controls are necessary for those engines that cannot be replaced with electric motors.

In June 2005, the San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD) and the South Coast Air Quality Management District (SCAQMD)

Boards approved revisions to local rules that included oxides of nitrogen (NOx) emission standards for in-use agricultural engines. Although SJVUAPCD Rule 4702 and SCAQMD Rule 1110.2 do not specifically regulate diesel PM, they are expected to result in the replacement of older in-use agricultural engines with electric motors or new, cleaner diesel or other engines.

As part of this rulemaking, ARB staff updated the emission inventory for stationary diesel agricultural pump engines. ARB staff estimates there are about 8,600 agricultural engines operating in California in 2005. These engines account for about 1.6 tons per day (tpd) of diesel PM and 33 tpd day of oxides of nitrogen (NOx). The updated inventory and regulatory proposals were discussed during two public consultation meetings and four public workshops held in Colusa, Durham, Modesto, and Sacramento.

Description of the Proposed Regulatory Action:

Regulation of In-Use Agricultural Engines

ARB staff anticipates that most of the in-use agricultural engines affected by the proposed amendments will be those used to pump water for the irrigation of crops. The proposed amendments do not apply to diesel-fueled agricultural wind machine engines. Also, in-use agricultural emergency standby generator set engines and remotely-located agricultural engines are exempt from in-use emission limits provided they are registered with the local air district and comply with certain other provisions in the regulation.

Engine replacement is expected to be the most practical and cost-effective means of complying with the proposed amendments to the Stationary Diesel Engine ATCM. This strategy is expected to result in NOx, carbon monoxide (CO), and hydrocarbon (HC) emission reductions commensurate with diesel PM emission reductions. The compliance dates in the proposed Stationary Diesel Engine ATCM should not interfere with the implementation of the SJVUAPCD and SCAQMD rules regulating in-use agricultural engines.

The proposed amendments, in conjunction with local air district regulations, engine replacement incentive programs, and a negative growth factor for California's agricultural industry, would benefit public health by reducing diesel PM exposure and cancer risk, particularly in areas where stationary diesel agricultural engines operate. The proposed amendments are also expected to result in reductions in emissions of other air pollutants, such as NOx and reactive organic gases (ROG). NOx and ROG are precursors to ozone formation in the lower atmosphere and NOx is a precursor to secondary PM. Table 1 summarizes projected PM and NOx emission reductions.

Table 1. Projected Diesel PM and NOx Emissions Reductions^{1,2,3}

Year	Diesel PM Emission Reductions from 2005 TPD (TPY)	NOx Emission Reductions from 2005 TPD (TPY)
2012	0.9 (330)	16 (5,800)
2022	1.2 (440)	22 (8,100)

1. For in-use >50 hp stationary diesel agriculture pumps engines.
2. All values have been rounded.
3. Emission reductions are based on year 2005 emission levels which were forecast based on a 2003 emission inventory.

Air pollution from diesel engines contributes to premature death, heart disease, respiratory illnesses like asthma and bronchitis, and increased risk of cancer. Decreased ozone formation is likely to reduce illness, emergency room visits, and hospital admissions due to respiratory problems. The proposed amendments would contribute to further progress in meeting ambient air quality standards for PM10, PM2.5, and ozone. Additionally, the proposed amendments would benefit the environment by improving visibility and by reducing soiling, crop loss, and damage to ornamental and forest vegetation. ARB staff believes that the proposed amendments will effectively reduce diesel PM and other air pollutant emissions from in-use stationary diesel agricultural engines.

ARB staff has proposed renumbering title 17, CCR, section 93115 by creating multiple sections based on topic (e.g., section 93115.8 contains the specific requirements for new and in-use agricultural engines). ARB staff believes that the renumbering will facilitate the determination of applicability of the requirements of the ATCM.

Emission Limits

The proposed amendments to the ATCM use the off-road engine certification standards to determine which engines need to be replaced/upgraded, by when, and what emission limit must be met. The off-road engine certification standards are phased in as Tiers 1 through 4. The standards become more stringent as each tiered standard takes effect in four to five year increments. Pre-1996 engines are generally referred to as noncertified (Tier 0) engines because they were manufactured before the ARB/United States Environmental Protection Agency (U.S. EPA) off-road certification standards were effective.

The emission performance standards in the proposed amendments require greater than 50 hp in-use agricultural engines to meet Tier 3 or Tier 4 off-road compression ignition (CI) engine certification standards (title 13, CCR, section 2423) beginning December 31, 2010.

With two exceptions, noncertified (pre-1996, uncontrolled or Tier 0) engines would be required not to exceed Tier 3 or Tier 4 standards in the 2011–2012 time-frame (see Table 2). Less than 175 horsepower (hp) Tier 0 non-emergency generator set engines would be required not to exceed Tier 4 standards in the 2016 time-frame. Greater than 750 hp Tier 0 engines would be required not to exceed Tier 4 standards in the 2015 time-frame.

All Tier 1– and Tier 2–certified engines would be required not to exceed Tier 4 standards in the 2015–2016 timeframe or 12 years after the date of initial installation, whichever is later (see Table 3). The purpose of the 12-year provision is to allow the owner/operators of Tier 1– and Tier 2–certified in-use agricultural engines at least 12 years of useful life.

Table 2. Proposed In-Use Stationary Diesel Agricultural Engine PM Emission Limits (Tier 0)

Noncertified (Tier 0) Engine Horsepower	Off-Road CI Engine Certification Standard	Proposed Stationary Diesel Engine ATCM Compliance Date
> 50 to 99	Tier 3 or Interim Tier 4	December 31, 2011
100-174	Tier 3	December 31, 2010
175-750	Tier 3	December 31, 2010
> 750	Tier 4	December 31, 2014

Table 3. Proposed In-Use Stationary Diesel Agricultural Engine PM Emission Limits (Tiers 1 and 2)

Tier 1 or Tier 2 Certified Engine Horsepower	Off-Road CI Engine Certification Standard	Proposed Stationary Diesel Engine ATCM Compliance Date
> 50 to 174	Tier 4	December 31, 2015 ¹
> 175	Tier 4	December 31, 2014 ¹

1. Or 12 years after initial installation

Compliance Dates

The compliance dates in the proposed amendments have been designed to take effect four years after Tier 3 and Tier 4 Off-Road CI Engine Certification Standards for new engines become effective. This compliance schedule allows one year to ensure the availability of compliant engine packages for agricultural applications and the potential for three years of operation prior to a compliance deadline. Providing up to three years of operation before the final compliance deadline would ensure that Carl Moyer Program funding could be used to provide incentives for earlier and more significant emissions reductions. Additionally, to ensure that compliant new engine packages for agricultural applica-

tions are available, ARB staff is proposing to allow the ARB Executive Officer to extend an in-use stationary diesel agricultural emission standard compliance date for up to one year.

Residual Risk Provision

Depending on proximity to receptors, it is possible that some owner/operators who replace their Tier 0 engines with Tier 3 engines in accordance with the proposed amendments may still pose a risk to nearby receptors. Pursuant to the goals of the AB 2588 “Hot Spots” Program (title 17, CCR, section 93300.5) to address such risk issues, the proposed amendments to the ATCM contain a provision allowing local air districts, on a site-specific basis, to extend compliance dates with ATCM emission standards provided the engine meets Tier 4 engine Off-Road CI Engine Certification Standards for PM (i.e., 0.02 grams per brake horsepower hour (g/bhp-hr) for an engine greater than 50 bhp but less than 75 bhp or 0.01 g/bhp-hr for an engine greater than or equal to 75 bhp) no later than three years after the otherwise applicable ATCM compliance date. Staff does not anticipate any significant residual risk issues from engines with such low PM emission rates.

Engine Registration Program

With the exception of agricultural wind machines, the proposed amendments require new and in-use stationary diesel agricultural engine owners or operators to register each engine with the local air district. As part of the registration, owners or operators are required to pay any fees assessed by the districts to implement and enforce the ATCM and manage the registration program. To assist the local air districts, ARB staff plans to publish guidelines for the registration program, including suggested requirements for the submittal of contact, engine, and engine location information. Since most agricultural engines are not permitted, the registration program will provide a means for affected party notification and compliance assurance. The Executive Officer may approve alternative district programs that are equivalent.

Fuel Usage

The proposed amendments require owners and operators to fuel their in-use stationary diesel agricultural engines with CARB diesel or another Stationary Diesel Engine ATCM-compliant fuel. ARB staff does not foresee any difficulty in meeting this fuel requirement because CARB diesel fuel (and CARB diesel fuel-bio-diesel blends) are the only diesel fuels that can be marketed in California as of July 2006.

Recordkeeping and Reporting

Owners and operators of in-use stationary diesel agricultural engines will be subject to recordkeeping and reporting requirements similar to the existing ATCM requirements for other stationary diesel engines.

These requirements include maintaining records of annual hours of operation, where applicable.

Other Proposed Amendments

Staff is proposing several other changes to the Stationary Diesel Engine ATCM to address implementation and compliance issues. These include streamlining certain fuel reporting requirements, updating electricity tariff schedules, changing the definitions of California (CARB) diesel fuel and alternative diesel, adding a new compliance option to meet the 0.01 g/bhp-hr diesel PM standard, providing engine “sell-through” provisions, clarifying the definition of “emergency use” for emergency standby engines performing military launch tracking, and updating references. Staff is also proposing changes to the fuel requirements relative to the use of certain alternative diesel fuels in stationary CI engines, including the use of biodiesel and biodiesel blends.

Additionally, staff is proposing that local air districts be provided discretion in defining “maintenance and testing,” and for exempting from the requirements of the ATCM stationary CI engines at test cell, test stand, and research and development facilities, and for stationary CI engines used exclusively for training at educational facilities.

Potential Changes to the Consideration of the use of Engines Enrolled in Demand Response Programs

It has been recently brought to the attention of ARB staff that a recent California Public Utilities Commission ruling has directed three California utilities to initiate reconsideration of utility demand response programs (DRP) for 2007 and 2008. As defined in the ATCM, a DRP is a program for reducing electrical demand using an interruptible service contract. Currently, two of these utilities, Pacific Gas and Electric, and Southern California Edison, do not participate in a DRP program. At this time, it is unclear how this ruling may affect the current DRP provisions in the ATCM.

At the hearing, staff may consider proposing additional changes to the Board regarding the use of engines enrolled in demand response programs. These changes may include allowances for the Executive Officer to approve additional hours of operation beyond those already provided for in the ATCM for DRP engines, requirements for prioritizing the use of DRP engines during Stage 2 or Stage 3 electrical alerts, or other changes as appropriate.

COMPARABLE FEDERAL REGULATIONS

Federal New Nonroad (Mobile) CI Engine Certification Standards

Federal nonroad CI engine certification standards set forth in the United States Code of Federal Regulations

(CFR) Title 40, Chapter I, Part 89, Subpart B and Part 1039, Subpart B and California Off-Road CI Engine Certification Standards (title 13, CCR, section 2423) are the same with respect to standards and implementation schedules. The only areas of difference include mandatory labeling for “flexibility” and rebuilt engines in California.

The proposed Stationary Diesel Engine ATCM is expected to result in in-use agricultural engine replacement with new engines. Though compliant for the purposes of the certification standards, new “flexibility” engines would only be allowed if they meet the PM emission limit for the model year engine specified in the Stationary Diesel Engine ATCM. “Flexibility” engines are not expected to present a problem for implementation of the proposed amendments because such engines are required to be identified by labels.

Federal New Source Performance Standards (NSPS) for Stationary CI Internal Combustion Engines

U.S. EPA has recently adopted federal performance standards for new stationary CI internal combustion engines (Vol. 71, No. 132, July 11, 2006, FR 39154). The standards essentially require manufacturers of 2007 and later model year stationary engines, including those used in agriculture, to comply with the federal nonroad CI engine certification standards which are essentially the same as California Off-Road CI Engine Certification Standards as described above. By complying with the Stationary Diesel Engine ATCM, an owner/operator replacing an in-use agricultural engine would be complying with the NSPS.

Federal Fuel Standards

There are both federal and State fuel standards. The federal commercial fuel standards set forth in 40 CFR Part 80 require diesel fuel supplied to off-road engines (including stationary agricultural and other engines) to meet a 500 parts per million (ppm) sulfur limit beginning June 1, 2007. More stringent California fuel standards are set forth in title 13, CCR, sections 2281–2285. California diesel fuel standards establish a 15 ppm sulfur limit and a 10 volume percent aromatic hydrocarbon limit, or allow diesel fuel that provides equivalent or better emission performance. Fuel suppliers in California must provide diesel fuel that meets the more stringent California fuel standards. Fuel supplied as compliant California fuel also complies with less stringent federal standards. Pursuant to the existing Stationary Diesel Engine ATCM, nonagricultural stationary diesel engines in California are already subject to these fuel requirements. No issues are expected regarding owner/operator compliance with the in-use stationary diesel agricultural engine fuel-use requirements in the pro-

posed amendments because only California-compliant fuel may be sold for use in the State.

AVAILABILITY OF DOCUMENTS AND AGENCY CONTACT PERSONS

The Board staff has prepared a Staff Report: Initial Statement of Reasons (ISOR) for the proposed regulatory action, which includes a summary of the economic and environmental impacts of the proposal. The report is entitled: Staff Report: Initial Statement of Reasons for Proposed Requirements for Stationary Diesel In-Use Agricultural Engines, September 2006.

Copies of the ISOR and the full text of the proposed regulatory language, in underline and strikeout format to allow for comparison with the existing regulations, may be accessed on ARB's website listed below, or may be obtained from the Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, 1st Floor, Sacramento, California, 95814, (916) 322-2990 at least 45 days prior to the scheduled hearing on November 16, 2006.

Upon its completion, the Final Statement of Reasons (FSOR) will be available and copies may be requested from the agency contact persons in this notice, or may be accessed on the ARB's website listed below.

Inquiries concerning the substance of the proposed regulation may be directed to the designated agency contact persons: Richard Boyd, Manager, Process Evaluation Section, (916) 322-8285, rboyd@arb.ca.gov, for inquiries regarding in-use agricultural engines or Ronald Hand, Air Pollution Specialist, Technical Analysis Section, (916) 327-6683, rhand@arb.ca.gov, for inquiries regarding nonagricultural engines. Further, the agency representative and designated back-up contact persons to whom nonsubstantive inquiries concerning the proposed administrative action may be directed are Artavia Edwards, Manager, Board Administration and Regulatory Coordination Unit, (916) 322-6070, or Alexa Malik, Regulations Coordinator, (916) 322-4011. The Board has compiled a record for this rulemaking action, which includes all the information upon which the proposal is based. This material is available for inspection upon request to the contact persons.

This notice, the ISOR and all subsequent regulatory documents, including the FSOR, when completed, are available on ARB Internet site for this rulemaking at <http://www.arb.ca.gov/regact/agen06/agen06.htm>.

Additional information about publications and activities related to the proposed amendments is available at <http://www.arb.ca.gov/diesel/ag/inuseag.htm>. You may request electronic mail messages to alert you to updates to this website by joining the electronic list serve at <http://www.arb.ca.gov/listserv/inuseag.htm>.

COSTS TO PUBLIC AGENCIES AND TO BUSINESSES AND PERSONS AFFECTED

The determinations of the Board's Executive Officer concerning the costs or savings necessarily incurred by public agencies and private persons and businesses in reasonable compliance with the proposed amendments are presented below.

Pursuant to Government Code section 11346.5(a)(5), the Executive Officer has determined that the proposed amendments will possibly impose a mandate on local agencies or school districts. The Executive Officer has further determined pursuant to Government Code section 11346.5(a)(6) that the proposed regulations will result in some additional costs to the Air Resources Board and other state agencies. In addition, the Executive Officer has also determined pursuant to Government Code section 11346.5(a)(6) that the proposed regulatory action will possibly create a cost to any local agency or school district that is required to be reimbursed under Part 7 (commencing with section 17500) of Division 4 of the Government Code or other nondiscretionary costs or savings imposed on local agencies. The Executive Officer further determined that the proposed amendments will not result in costs or savings in federal funding to the state.

The proposed amendments affect CI engines used in either non-agricultural or agricultural use; the amendments affecting non-agricultural engines are estimated to be cost-neutral or produce a slight cost savings to their owners/operators, and thus are not discussed below. The amendments affecting agricultural in-use engines are expected to impose costs upon those businesses or public entities as described below in the Fiscal Impact to Businesses Section, and are discussed below.

Fiscal Impact on Local Agencies or School Districts

The Executive Officer has determined that the proposed regulatory action will have an impact, although insignificant, on costs to local agencies or school districts since it will require a very small number of local agency or school districts to comply with the amended ATCM.

Some compliance (including reporting) costs may be incurred by a few local agencies and school districts, to the extent that they own or operate affected engines. Staff was unable to locate any affected agricultural in-use engines owned or operated by local agencies or school districts; therefore, staff believes that there may only be a few of these entities that will incur costs.

Fiscal Impact on State Agencies or Federal Funding to the State

Some relatively minor costs will occur for correctional facilities and universities (both the California State University (CSU) and University of California (UC) systems) that own or operate affected agricultural in-

use engines. Staff has determined that less than 10 engines owned or operated by correctional facilities and universities would be affected. Since the compliance costs are insignificant compared to their overall budgets, we believe that the costs will be able to be met within their existing budgets. The proposed amendments will impose a cost to ARB for local air district implementation and enforcement assistance. These one-time costs to ARB primarily involve developing health risk screening materials and database tracking software for district use in their enforcement activities. These costs are estimated at approximately \$62,000; ARB staff expects that the costs will be absorbed within the existing budget.

The Executive Officer has also determined that the proposed regulatory action will not create costs or savings in federal funding to the State.

Fiscal Impact to Businesses

The Executive Officer has made an initial determination that the proposed regulatory action will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states, or on representative private persons.

In developing this regulatory proposal, the ARB staff evaluated the potential economic impacts that representative private persons or businesses might incur in reasonable compliance with the proposed Stationary Diesel Engine ATCM. The Executive Officer has initially assessed that the proposed regulatory action will affect the businesses that operate the affected engines. The costs for businesses and individuals that operate or own the affected engines are estimated to be in the range of \$34 million to \$42 million, over a 22-year period, which results in an average cost-effectiveness of \$11 per pound of diesel PM reduced (the cost-effectiveness range is from \$1 to \$22 per pound of diesel PM reduced). The cost for businesses and individuals is not expected to exceed \$10 million in any one year.

In accordance with Government Code sections 11346.3 and 11346.5(a)(10), the Executive Officer has determined that the proposed regulatory action may lead to creation or elimination of some businesses. Due to the long lead-time for compliance, the range of compliance options available, and the availability of incentive funding, we believe that most businesses will be able to meet the compliance costs. However, it is possible that a small number of businesses (those with marginal profitability) may experience financial difficulty in complying with the proposed amendments. Businesses that may be created include those that furnish, install, and maintain diesel emission control systems, as well as those that provide alternative compliance strategies. Engine and approved emission control system

manufacturers, distributors, and dealers are likely to see an increase in business due to accelerated attrition and other options to meet the in-use requirements of the proposed amendments.

The Executive Officer has also determined, pursuant to title 1, CCR, section 4, that the proposed regulatory action will have an impact on small businesses. We believe that a majority of the affected engine owners and operators are likely to be small businesses. ARB estimates the initial cost to a small (as well as a typical) business (owning one to three engines) to be within the range of \$6,900 to \$33,000 in 2006.

In accordance with Government Code sections 11346.3(c) and 11346.5(a)(11), ARB's Executive Officer has found that the reporting requirements of the proposed amendments that apply to businesses are necessary for the health, safety, and welfare of the people of the State of California.

In accordance with Health and Safety Code section 43013(c), the Executive Officer has determined that the standards and other requirements in the proposed amendments are necessary, cost-effective, and technologically feasible for agricultural operations (i.e., farm equipment).

A detailed assessment of the economic impacts of the proposed amendments can be found in the ISOR.

Fiscal Impact to Local Air Districts

There will be significant costs to the local air districts to implement and enforce the ATCM. Staff estimates that a district's costs to implement the registration program (initial registration) would be approximately \$45 to \$90 per engine. An additional cost of \$26 to \$242 would be needed to cover an inspection and registration update at the time of final compliance with the ATCM. State law allows the districts to charge fees to recover these costs. These costs would not impact SJVUAPCD or SCAQMD because these districts have already established registration or permitting programs similar to the registration program in the proposed amendments.

Before taking final action on the proposed regulatory action, the Board must determine that no reasonable alternative considered by the board or that has otherwise been identified and brought to the attention of the board would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

SUBMITTAL OF COMMENTS

The public may present comments relating to this matter orally or in writing at the hearing, and in writing or by email before the hearing. To be considered by the Board, written submissions not physically submitted at

the hearing must be received **no later than 12:00 noon, November 15, 2006**, and addressed to the following:

Postal mail is to be sent to:

Clerk of the Board
Air Resources Board
1001 I Street, 23rd Floor
Sacramento, California 95814

Electronic submittal: <http://www.arb.ca.gov/lispub/comm/bclist.php> **no later than 12:00 noon, November 15, 2006.**

Facsimile transmissions are to be transmitted to the Clerk of the Board at (916) 322-3928 and received at ARB **no later than 12:00 noon November 15, 2006.**

The Board requests but does not require that 30 copies of any written statement be submitted and that all written statements be filed at least 10 days prior to the hearing so that ARB staff and Board Members have time to fully consider each comment. ARB encourages members of the public to bring to the attention of staff in advance of the hearing any suggestions for modification of the proposed regulatory action.

STATUTORY AUTHORITY AND REFERENCES

This regulatory action is proposed under that authority granted in Health and Safety Code sections 39650-39675. This action is proposed to implement, interpret and make specific Health and Safety Code sections 39650-39675.

HEARING PROCEDURES

The public hearing will be conducted in accordance with the California Administrative Procedure Act, title 2, division 3, part 1, chapter 3.5 (commencing with section 11340) of the Government Code.

Following the public hearing, the Board may adopt the regulatory language as originally proposed, or with non substantial or grammatical modifications. The Board may also adopt the proposed regulatory language with other modifications if the text as modified is sufficiently related to the originally proposed text that the public was adequately placed on notice that the regulatory language as modified could result from the proposed regulatory action; in such event the full regulatory text, with the modifications clearly indicated, will be made available to the public, for written comment, at least 15 days before it is adopted.

The public may request a copy of the modified regulatory text from ARB's Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, 1st Floor, Sacramento, California 95814, (916) 322-2990.

TITLE 17. CALIFORNIA AIR RESOURCES BOARD

NOTICE OF PUBLIC HEARING TO CONSIDER THE PROPOSED ADOPTION OF AIRBORNE TOXIC CONTROL MEASURE AMENDMENTS LIMITING ONBOARD INCINERATION ON CRUISE SHIPS AND OCEANGOING SHIPS

The Air Resources Board (ARB or Board) will conduct a public hearing at the time and place noted below to consider the adoption of proposed Airborne Toxic Control Measure (ATCM) amendments regarding on-board incineration on cruise ships and other oceangoing ships at California ports and terminals and along the California coast.

DATE: November 16, 2006
TIME: 9:00 a.m.
PLACE: Public Utilities Commission Auditorium
505 Van Ness Avenue
San Francisco, California 94102

This item will be considered at a two-day meeting of the Board, which will commence at 9:00 a.m. on Thursday, November 16, 2006, and may continue at 8:30 a.m., Friday, November 17, 2006. This item may not be considered until November 17, 2006. Please consult the agenda for the meeting, which will be available at least ten days before November 16, 2006, to determine the day on which this item will be considered.

For individuals with sensory disabilities, this document is available in Braille, large print, audiocassette or computer disk. Please contact ARB's Disability Coordinator at (916) 323-4916 by voice or through the California Relay Services at 711, to place your request for disability services. If you are a person with limited English and would like to request interpreter services, please contact ARB's Bilingual Manager at (916) 323-7053.

INFORMATIVE DIGEST OF PROPOSED ACTION AND POLICY STATEMENT OVERVIEW

Sections Affected: Proposed amendment to title 17, California Code of Regulations (CCR) section 93119.

Background:

In October 2004, Assembly Bill 471 (AB 471) was passed by the California Legislature and codified in Health and Safety Code (HSC) section 39630-39632. AB 471 prohibited cruise ships from conducting on-board incineration while operating within three miles of the California coast. On November 17, 2005, the Board adopted the ATCM for Cruise Ship Onboard Incineration (Cruise Ship ATCM) as title 17, CCR, 93113. The

Cruise Ship ATCM implements AB 471 by clarifying the limit for incineration along the California coast as three nautical miles and establishing recordkeeping and reporting requirements.

In October 2005, the California Legislature enacted Senate Bill 771 (SB 771), which amended HSC sections 39630–39632. SB 771 expands the requirements of AB 471 to include all oceangoing ships of 300 gross registered tons or more. This law became effective January 1, 2006.

Description of the Proposed Regulatory Action:

ARB staff is proposing that the Board amend the Cruise Ship ATCM to incorporate the requirements of SB 771, further limit the definition of “cruise ship” to those calling on California ports or places, refine the recordkeeping requirements, including requirements for cruise ships, require that information be recorded while ships are operating within Regulated California Waters (RCW) as defined, and add alternative requirements for the military for recordkeeping and onboard inspections. The proposed amendments are expected to reduce public exposure to emissions of toxic air contaminants (TACs) for residents and workers living or working in port communities and along the California coast.

The proposed amended ATCM would affect owners or operators of cruise ships and oceangoing ships calling on California ports or places. As defined in HSC section 39631 and the proposed regulatory amendments, an oceangoing ship is a private, commercial, government, or military vessel of 300 gross registered tons or more calling on California ports or places, excluding cruise ships.

Cruise ship and oceangoing ship owners and operators would be prohibited from conducting onboard incineration within three nautical miles of the California coast. However, onboard incineration within three nautical miles of the California coast may be permitted when operated under the direction and supervision of the United States Coast Guard (USCG). Under existing USCG policy, during port inspections, USCG personnel may require an owner or operator of a cruise ship or oceangoing ship to operate the incinerator as a means to verify the incinerator is in proper working order.

Under the existing Cruise Ship ATCM, cruise ship owners or operators are required to maintain incineration records for each segment of a voyage, if during any portion of that segment the cruise ship travels within three miles of the California coast. The proposed amendments modify this provision to require cruise ship and oceangoing ship owners or operators to record certain information while operating in RCW. In Northern and Central California, the RCW boundary follows the 24 nautical mile contiguous zone, an internationally recognized boundary. In Southern California, the

boundary consists of straight line segments approximately 24 nautical miles offshore of the coastline.

The following information would have to be recorded by the cruise ship and oceangoing ship owner or operator while the incinerator is operating within the RCW:

- The date and time of start and stop of incineration (in local time);
- The position of the ship in latitude and longitude for each start and stop time of incineration;
- The estimated amount incinerated in cubic meters (m³);
- The name or signature of officer in charge of the operation; and
- When operation of the incinerator is required by the USCG, the name, unit, and phone number of USCG personnel who directed that the incinerator be operated.

Records would have to be maintained in English and kept onboard the ship for two years. During an onboard inspection, these records must be made available to ARB personnel, or their delegates. In addition, upon written request by ARB’s Executive Officer, the owner or operator of the ship must provide copies of the records within 30 calendar days of the request.

With the exception of the requirement to record the name, unit, and phone number of USCG personnel who directed operation of the incinerator, the recordkeeping requirements in the proposed amended ATCM are also required under Regulation 9 of Annex V of the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 (MARPOL 73/78). Cruise ships and oceangoing ships of 400 gross registered tons or more currently maintain this information in a garbage record log book. The additional requirement to record the name, unit, and phone number of USCG personnel who directed operation of the incinerator will avoid penalizing the cruise ship or oceangoing ship owner or operator for a permissible activity and will allow ARB a means to verify compliance with the ATCM.

Due to heightened national security and military security concerns, clearance issues could arise for ARB inspectors to board military vessels. Therefore, alternative requirements are proposed for military agencies to address special issues of onboard inspections for military vessels.

As specified in MARPOL 73, Article 3, in certain situations, MARPOL 73 requirements do not apply to military vessels. However, owners or operators of military vessels are required to “...ensure by the adoption of appropriate measures not impairing the operations or operational capabilities of such ships owned or operated by it, that such ships act in a manner consistent, so far as is reasonable and practicable, with the present Conven-

tion.” Therefore, alternative requirements are proposed for military agencies to address these special recordkeeping issues.

Under the proposed amended ATCM, cruise ship and oceangoing ship owners or operators are prohibited from conducting onboard incineration within three miles of the California coast, except when required to be operated under the direction or supervision of the USCG. The phrase “within three miles of the California coast” is defined in the existing ATCM as between the California coast and the Three Nautical Mile Line, as shown on the following National Oceanic and Atmospheric Administration (NOAA) Nautical Charts, as authored by the NOAA Office of Coast Survey, which are incorporated by reference in the proposed amended regulation.

- Chart 18600, Trinidad Head to Cape Blanco (January 2002);
- Chart 18620, Point Arena to Trinidad Head (June 2002);
- Chart 18640, San Francisco to Point Arena (August 2005);
- Chart 18680, Point Sur to San Francisco (June 2005);
- Chart 18700, Point Conception to Point Sur (July 2003);
- Chart 18720, Point Dume to Purisima Point (January 2005); and
- Chart 18740, San Diego to Santa Rosa Island (April 2005)

COMPARABLE FEDERAL REGULATIONS

The International Maritime Organization (IMO) is a specialized agency of the United Nations which is responsible for measures to improve the safety and security of international shipping and to prevent marine pollution from ships. The IMO, along with other maritime nations, has developed standards which are set forth in MARPOL 73/78. MARPOL 73/78 is a combination of two treaties adopted in 1973 and 1978 and has been updated by amendments over the years. MARPOL 73/78 includes six technical annexes which include regulations aimed at preventing and minimizing pollution from ships. Compliance with MARPOL 73/78 is mandatory.

MARPOL 73/78 contains two regulations for onboard cruise ship and oceangoing ship incinerators. Annex V primarily deals with garbage recordkeeping requirements for onboard incineration. Annex VI prohibits the incineration of certain wastes and imposes additional operating requirements for the incinerators. MARPOL 73/78 is implemented in the United States by the Act to Prevent Pollution from Ships (33 U.S.C.

section 1901 *et seq.*). The USCG is responsible for prescribing and enforcing regulations pursuant to MARPOL 73/78. The recordkeeping requirements in the proposed amended ATCM are not substantially different from the recordkeeping requirements of MARPOL 73/78. However, the recordkeeping requirements in the proposed amended ATCM differ from those in MARPOL 73/78 in that the proposed amended ATCM recognizes that under USCG policy, the USCG may direct an owner or operator of a cruise ship or oceangoing vessel to operate the incinerator within three nautical miles of the California coast. Therefore, the proposed amended ATCM also requires the cruise ship and oceangoing ship owner or operator to record the name, unit, and phone number of USCG personnel who directed operation of the incinerator.

The Animal and Plant Health Inspection Service (APHIS) in the U.S. Department of Agriculture is responsible for regulations and policies governing the handling and disposal of regulated garbage to prevent the introduction of foreign animal and plant disease and pests. These regulations are contained in title 7, Code of Federal Regulations (CFR), section 330.400 and title 9, CFR section 94.5. “Regulated garbage,” as defined in the CFR, is derived in whole or in part from fruits, vegetables, meats, or other plants or animal material, and other refuse associated with the material onboard including food scraps, table refuse, galley refuse, food wrappers or packing materials and other waste material from stores, food preparation areas, passenger or crew quarters, dining rooms and other areas. Most of the regulated garbage onboard cruise ships and oceangoing ships are subject to APHIS regulations.

Under APHIS regulations, regulated garbage within the territorial waters or the territory of the United States is required to be destroyed by incineration to an ash or sterilization by cooking to an internal temperature of 212 degrees Fahrenheit for 30 minutes. Regulated garbage may also be ground and disposed of in an APHIS approved sewer system.

The proposed amended ATCM differs from the APHIS regulations in that APHIS allows incineration within territorial waters (within 12 nautical miles of the coast) while the proposed amended ATCM prohibits incineration within three nautical miles of the California coast.

AVAILABILITY OF DOCUMENTS AND AGENCY CONTACT PERSONS

ARB staff has prepared a Staff Report: Initial Statement of Reasons (ISOR) for the proposed regulatory action, which includes a summary of the economic and environmental impacts of the proposal. The report is entitled, “Staff Report: Initial Statement of Reasons for

the Proposed Adoption of Airborne Toxic Control Measure Amendments Limiting Onboard Incineration on Cruise Ships and Oceangoing Ships.”

Copies of the ISOR and the full text of the proposed regulatory language may be accessed on the ARB’s website listed below, or may be obtained from the Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, 1st Floor, Sacramento, CA 95814, (916) 322-2990 at least 45 days prior to the scheduled hearing (November 16, 2006).

Upon its completion, the Final Statement of Reasons (FSOR) will be available and copies may be requested from the agency contact persons in this notice, or may be accessed on the website listed below.

Inquiries concerning the substance of the proposed regulation may be directed to the designated agency contact persons, Robert Krieger, Manager of the Emissions Evaluation Section, Emissions Assessment Branch, Stationary Source Division at (916) 323-1202 and Michelle Komlenic, Air Pollution Specialist, Stationary Source Division at (916) 322-3926.

Further, the agency representative and designated back-up contact person to whom nonsubstantive inquiries concerning the proposed administrative action may be directed to Alexa Malik, Regulations Coordinator, (916) 322-4011. The Board has compiled a record for this rulemaking action, which includes all the information upon which the proposal is based. This material is available for inspection upon request to the contact persons.

This notice, the ISOR and all subsequent regulatory documents, including the FSOR, when completed, are available on the ARB Internet site for this rulemaking at <http://www.arb.ca.gov/regact/csoi06/csoi06.htm>.

COSTS TO PUBLIC AGENCIES AND TO BUSINESSES AND PERSONS AFFECTED

The determinations of the Executive Officer of the ARB concerning the cost or savings necessarily incurred by public agencies and private persons and businesses in reasonable compliance with the proposed regulatory action are presented below.

The ARB’s Executive Officer has determined that the proposed regulatory action will not create costs, as defined in Government Code section 11346.5(a)(6), to state agencies. Any such costs should be minimal, and affected state agencies should be able to absorb these costs within existing budgets and resources. Pursuant to Government Code section 11346.5(a)(5), the Executive Officer has also determined that the proposed regulatory action will not create costs or savings in federal funding to the state, costs or mandate to any local agency or school district whether or not reimbursable by the state

pursuant to part 7 (commencing with section 17500), division 4, title 2 of the Government Code, or other non-discretionary cost or savings to state or local agencies.

In developing this regulatory proposal, ARB staff evaluated the potential economic impacts on representative private persons or businesses. ARB is not aware of any significant cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. This is because HSC section 39632, enacted by AB 471 and SB 771, already prohibits onboard incineration on cruise ships and oceangoing ships (of 300 gross registered tons or more) while operating within three miles of the California Coast, and MARPOL 73/78 already requires maintenance of most records proposed to be required. The only additional recordkeeping requirement imposed by the proposed action is the additional information if the USCG directs the owner or operator of a cruise ship or oceangoing ship to operate the incinerator within Regulated California Waters. Therefore, recordkeeping costs from this regulation would be negligible.

Ships between 300 and 400 gross tons are not required to maintain records under MARPOL 73/78. However, as specified in HSC sections 39631-39632, the proposed amended Cruise Ship ATCM will apply to oceangoing vessels 300 gross registered tons or more. Although ARB staff did not identify any oceangoing vessels between 300 and 400 gross registered tons which conduct onboard incineration, under the proposed amendments, ships between 300 and 400 gross tons conducting onboard incineration could incur negligible costs for recordkeeping during the time the oceangoing ship is traveling in RCW.

Although in certain situations MARPOL 73 requirements do not apply to government agencies such as the military, they must still adopt appropriate measures that are consistent with MARPOL. For some agencies it is not clear whether or not records are kept for onboard incineration. In the proposed amended Cruise Ship ATCM, alternative recordkeeping requirements are proposed for military agencies to track compliance. It is expected that costs would be negligible for recordkeeping.

The Executive Officer has made an initial determination that the proposed regulatory action will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states, or on representative private persons.

In accordance with Government Code section 11346.3, the Executive Officer has determined that the proposed regulatory action will not affect the creation or elimination of jobs within the State of California, the creation of new businesses or elimination of existing businesses within the State of California, or the expan-

sion of businesses currently doing business within the State of California. A detailed assessment of the economic impacts of the proposed regulatory action can be found in the ISOR.

The Executive Officer has also determined, pursuant to title 1, CCR, section 4, that the proposed regulatory action will not affect small businesses because the affected industry is composed of only large businesses.

In accordance with Government Code sections 11346.3(c) and 11346.5(a)(11), the Executive Officer has found that the reporting requirements of the ATCM which apply to businesses are necessary for the health, safety, and welfare of the people of the State of California.

Before taking final action on the proposed regulatory action, ARB must determine that no reasonable alternative considered by the agency or that has otherwise been identified and brought to the attention of the board would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons or businesses than the proposed action.

SUBMITTAL OF COMMENTS

The public may present comments relating to this matter orally or in writing at the hearing, and in writing or by email before the hearing. To be considered by the Board, written submissions must be received **no later than 12:00 noon, November 15, 2006**, and addressed to the following:

Postal mail: Clerk of the Board,
Air Resources Board
1001 I Street, Sacramento,
California 95814

Electronic submittal: <http://www.arb.ca.gov/lispub/comm/bclist.php>

Facsimile submittal: (916) 322-3928

The Board requests but does not require 30 copies of any written statement be submitted and that all written statements be filed at least 10 days prior to the hearing so that ARB staff and Board Members have time to fully consider each comment. The Board encourages members of the public to bring to the attention of staff in advance of the hearing any suggestions for modification of the proposed regulatory action.

STATUTORY AUTHORITY AND REFERENCES

This regulatory action is proposed under the authority granted to ARB in the HSC sections 39516, 39600, 39601, 39631, 39632, 39650, 39656, 39658, 39659, 39666, and 41510. This action is proposed to imple-

ment, interpret, and make specific HSC sections 39630, 39631, 39632, 39650, 39656, 39659, 39666, 41700, and 41806.

HEARING PROCEDURES

The public hearing will be conducted in accordance with the California Administrative Procedure Act, Title 2, Division 3, Part 1, Chapter 3.5 (commencing with section 11340) of the Government Code.

Following the public hearing, the Board may adopt the regulatory language as originally proposed or with non-substantial or grammatical modifications. The Board may also adopt the proposed regulatory language with other modifications if the text as modified is sufficiently related to the originally proposed text that the public was adequately placed on notice that the regulatory language as modified could result from the proposed regulatory action. In the event that such modifications are made, the full regulatory text, with the modifications clearly indicated, will be made available to the public for written comment at least 15 days before it is adopted.

The public may request a copy of the modified regulatory text from the ARB's Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, 1st Floor, Sacramento, CA 95814, (916) 322-2990. The document will also be posted on the website listed above.

TITLE 17. DEPARTMENT OF HEALTH SERVICES

ACTION: Notice of Proposed Rulemaking
Title 17, California Code of Regulations
SUBJECT: Well Logging; Leak Testing and
Abandonment of Irretrievable Sources,
R-06-008

PUBLIC PROCEEDINGS

Notice is hereby given that the California Department of Health Services will conduct written public proceedings during which time any interested person or such person's duly authorized representative may present statements, arguments or contentions (all of which are hereinafter referred to as comments) relevant to the action described in this notice.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

In the Radiation Control Law, the Department of Health Services (Department) is directed to develop programs for licensing and regulating radioactive mate-

rials. (Health & Saf. Code, § 115000, subd. (b).) In 1962, the State of California ratified and approved the State entering into an agreement with the United States Atomic Energy Commission, the predecessor of the United States Nuclear Regulatory Commission (NRC), by which the federal agency discontinued its regulatory authority over certain radioactive materials. (Health & Saf. Code, § 115230.) By such action California became an "Agreement State." A provision of the agreement between California and the NRC specifies that the State "will use its best efforts to maintain continuing compatibility between its program and the program of the [United States Atomic Energy] Commission for the regulation of like materials." (Health & Saf. Code, § 115235, art. V.)

The NRC has amended its regulations addressing leak testing of energy compensation sources (ECS) used in well logging operations and the requirements for notification and procedures for abandoning irretrievable well logging sources.

Well logging means all operations involving the lowering and raising of measuring devices or tools which contain radiation sources or are used to detect radiation sources in wells, for the purpose of obtaining information about the well or adjacent formations which may be used in oil, gas, mineral, groundwater, or geological exploration. (Cal. Code Regs., tit. 17, § 30345.2(q).)

To ensure compliance with the NRC agreement and compatibility of State regulations, this proposal amends existing regulations relating to well logging and addresses those changes made by the NRC as noted in the following federal register regarding well logging: 65 Fed.Reg. 20339 (April 17, 2000).

The regulations that implement, interpret and make specific the provisions of the Radiation Control Law are in title 17, California Code of Regulations, §§30100 through 30395.

The statutory authority and reference citation numbers of sections being amended are changed to reflect the numbering system implemented by the 1995 recodification of the Health and Safety Code resulting in a non-substantial change pursuant to title 1, California Code of Regulations, §100.

The Department has determined that, because the radiation control program must maintain compatibility with the Nuclear Regulatory Commission (Health & Saf. Code, § 115230), an alternative considered by the Department would be more effective in carrying out the purpose for which the regulation is proposed or would be as effective and less burdensome to affected private persons than the proposed regulation.

The Department proposes to amend the following:

Amend **Section 30346.3, Leak Testing of Sealed Sources**, for consistency with the corresponding NRC provision in 10 CFR 39.35. Currently, an energy com-

pensation sources (ECS) that is not exempt from leak testing pursuant to §30275(c), must be tested every six months. (Cal. Code Regs., tit. 17, sec. 30275(c).) This proposal would allow leak testing of ECSs to be performed at intervals not to exceed three years.

Amend **Section 30350.3, Notification of Incidents and Lost Sources; Abandonment Procedures for Irretrievable Sources**, for consistency with the corresponding NRC provision in 10 CFR 39.77 and to redesignate the numbering system to maintain a coherent structure. This provision will give licensees greater procedural latitude in the event of immediate abandonment. Licensees at the well logging site are best able to make the abandonment determination based on their experience and proximity to the situation. This amendment would allow in cases of immediate threat to public health and safety, prior approval by the Department of source abandonment is not necessary.

AUTHORITY

Sections 100275 and 115000, Health and Safety Code.

REFERENCE

Sections 114965, 114970, 115060, 115230 and 115235, Health and Safety Code.

COMMENTS

Any written comments pertaining to these regulations, regardless of the method of transmittal, must be received by the Office of Regulations by 5 p.m. on November 17, 2006, which is hereby designated as the close of the written comment period. Comments received after this date will not be considered timely. Persons wishing to use the California Relay Service may do so at no cost. The telephone numbers for accessing this service are: 1-800-735-2929, if you have a TDD; or 1-800-735-2922, if you do not have a TDD. Written comments may be submitted as follows:

1. By mail or hand-delivered to the Office of Regulations, Department of Health Services, MS 0015, 1501 Capitol Avenue, P.O. Box 997413, Sacramento, CA 95899-7413. It is requested but not required that written comments sent by mail or hand-delivered be submitted in triplicate; or
2. By fax transmission: (916) 440-7714; or
3. By email to regulation@dhs.ca.gov (it is requested that email transmissions of comments, particularly those with attachments, contain the regulation package identifier "R-06-008" in the subject line to facilitate timely identification and review of the comment), or
4. By using the "Making Comments on DHS Regulations" link on the Department website at <http://www.applications.dhs.ca.gov/regulations/>.

All comments, including email or fax transmissions, should include the author's name and U.S. Postal Service mailing address in order for the Department to provide copies of any notices for proposed changes to the regulation text on which additional comments may be solicited.

INQUIRIES

Inquiries regarding the substance of the proposed regulations described in this notice may be directed to Phillip Scott of the Radiologic Health Branch at (916) 440-7978.

All other inquiries concerning the action described in this notice may be directed to Cathy Ruebusch of the Office of Regulations at (916) 440-7841, or to the designated backup contact person, Charles E. Smith, at (916) 440-7693.

CONTACTS

In any inquiries or written comments, please identify the action by using the Department regulation package identifier, R-06-008.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF REGULATIONS

The Department has prepared and has available for public review an initial statement of reasons for the proposed regulations, all the information upon which the proposed regulations are based, and the text of the proposed regulations. The Office of Regulations, at the address noted above, will be the location of public records, including reports, documentation, and other material related to the proposed regulations (rulemaking file). In addition, a copy of the final statement of reasons (when prepared) will be available upon request from the Office of Regulations.

Materials regarding the action described in this notice (including this public notice, the regulation text, and the initial statement of reasons) that are available via the Internet may be accessed at <http://www.applications.dhs.ca.gov/regulations/> and then clicking on the "Select DHS regulations" button.

In order to request a copy of this public notice, the regulation text, and the initial statement of reasons be mailed to you, please call (916) 440-7695 (or California Relay at 711/1-800-735-2929), or email regulation@dhs.ca.gov, or write to the Office of Regulations at the address noted above. Upon specific request, these documents will be made available in Braille, large print, and audiocassette or computer disk.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

The full text of any regulation which is changed or modified from the express terms of the proposed action will be made available by the Department's Office of Regulations at least 15 days prior to the date on which the Department adopts, amends, or repeals the resulting regulation.

FISCAL IMPACT ESTIMATE

- A. Fiscal Effect on Local Government: None.
- B. Fiscal Effect on State Government: None.
- C. Fiscal Effect on Federal Funding of State Programs: None.
- D. All cost impacts, known to the Department at the time the notice of proposed action was submitted to the Office of Administrative Law, that a representative private person or business would necessarily incur in reasonable compliance with the proposed action: The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- E. Other Nondiscretionary Cost or Savings Imposed on Local Agencies: None.

DETERMINATIONS

The Department has determined that the regulations would not impose a mandate on local agencies or school districts, nor are there any costs for which reimbursement is required by Part 7 (commencing with Section 17500) of Division 4 of the Government Code.

The Department has made an initial determination that the regulations would not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

The Department has determined that the regulations would not significantly affect the following:

- (1) The creation or elimination of jobs within the State of California.
- (2) The creation of new businesses or the elimination of existing businesses within the State of California.
- (3) The expansion of businesses currently doing business within the State of California.

The Department has determined that the regulations would affect small business.

The Department has determined that the regulations will have no impact on housing costs.

ADDITIONAL STATEMENTS AND COMMENTS

In accordance with Government Code Section 11346.5(a)(13) the Department must determine that no reasonable alternative considered by the Department or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

No hearing has been scheduled; however any interested person or his or her duly authorized representative may request in writing, no later than 15 days prior to the close of the written comment period, a public hearing pursuant to Government Code Section 11346.8.

For individuals with disabilities, the Department will provide assistive services such as sign-language interpretation, real-time captioning, note takers, reading or writing assistance, and conversion of public hearing materials into Braille, large print, audiocassette, or computer disk. To request such services or copies in an alternate format, please call or write: Cathy Ruebusch, Office of Regulations, MS 0015, P.O. Box 997413, Sacramento, CA 95899-7413, voice (916) 440-7841 and/or California Relay 711/1-800-735-2929. Note: The range of assistive services available may be limited if requests are received less than ten business days prior to a public hearing.

GENERAL PUBLIC INTEREST

DEPARTMENT OF HEALTH SERVICES

THE CALIFORNIA DEPARTMENT OF HEALTH SERVICES ADOPTS REVISED BILLING CODES FOR MEDI-CAL 2006 CURRENT PROCEDURAL TERMINOLOGY — 4TH EDITION (CPT-4) AND 2006 HEALTHCARE COMMON PROCEDURE CODING SYSTEM (HCPCS)

The California Department of Health Services (CDHS) is revising the billing codes for the Medi-Cal program. The proposed changes will be effective for dates of service on or after November 1, 2006.

CDHS will adopt the Healthcare Common Procedure Coding System (HCPCS) 2006 Update, the 2006 Current Procedural Terminology — 4th Edition (CPT-4), and the HCPCS Level II codes and modifiers. CDHS

will also adjust the reimbursement rate to conform to current statutes as follow:

- The maximum reimbursement for new codes for orthotic and prosthetic appliances, and clinical laboratory services, respectively, will be at 80% of the 2006 Medicare rates—Welfare and Institutions Code sections 14105.21 and 14105.22.
- The maximum reimbursement for new codes for durable medical equipment, except for wheelchairs and related accessories, will be 80% of the 2006 Medicare rates—Welfare and Institutions Code section 14105.48. Reimbursement for new codes for wheelchairs and related accessories will be 100% of the 2006 Medicare rate.
- Maximum reimbursement for new billing codes for physician services will be 80% of the 2006 Medicare rate for the same item or service.

These proposed changes will impact the following provider categories:

- Clinical laboratories.
- Hospital outpatient departments and clinics.
- Long-term care facilities.
- Other outpatient clinics
- Acupuncturists.
- Durable medical equipment and medical supply dealers.
- Orthotists and prosthetists.
- Pharmacies/pharmacists.
- Physicians
- Podiatrists.
- Dispensers of eye appliances
- Providers of services under the California Children's Services/Genetically Handicapped Persons Program.

PUBLIC REVIEW

The changes are available for public review at local county welfare offices throughout California. Written comments must be submitted within 45 days from the publication date of these changes in the California Regulatory Notice Register. All comments should include the author's name, organization or affiliation, phone number and Provider ID number, if appropriate. Members of the public may request copies of this notice, the proposed list of billing codes, and proposed reimbursement rates under the 2006 HCPCS Update from, and submit comments to:

Kathleen Menda, Chief
Professional Provider Unit
California Department of Health Services
1501 Capitol Avenue
MS 4600
P.O. Box 997417
Sacramento, CA 95899-1417.

FISH AND GAME COMMISSION

NOTICE OF RECEIPT OF PETITION

NOTICE IS HEREBY GIVEN that, pursuant to the provisions of Section 2073.3 of the Fish and Game Code, the California Fish and Game Commission, on September 1, 2006, received a petition from the Department of Fish and Game to remove Hanging Gardens manzanita (*Arctostaphylos edmundsii* var. *parvifolia*) from the list of rare plants.

Hanging Gardens manzanita is no longer considered a valid taxon; rather, it is considered to be Little Sur manzanita (*Arctostaphylos edmundsii*), which occurs in ten locations in coastal Monterey County.

Pursuant to Section 2074.2 of the Fish and Game Code, the Commission will consider this petition at its December 7, 2006, meeting in Santa Monica.

Interested parties may contact Mr. Kevin Hunting, Chief, Habitat Conservation Planning Branch, Department of Fish and Game, at telephone (916) 653-4875 for information on the petition or to submit information to the Department relating to the petitioned species.

FISH AND GAME COMMISSION

NOTICE OF RECEIPT OF PETITION

NOTICE IS HEREBY GIVEN that, pursuant to the provisions of Section 2073.3 of the Fish and Game Code, the California Fish and Game Commission, on September 1, 2006, received a petition from the Department of Fish and Game to remove Marin bent grass (*Agrostis blasdalei* var. *marinensis*) from the list of rare plants.

Marin bent grass is no longer considered a valid taxon; rather, it is consolidated with the more common taxon, Blasdale's bent grass (*Agrostis blasdalei*), which occurs in northern and central coastal California.

Pursuant to Section 2074.2 of the Fish and Game Code, the Commission will consider this petition at its December 7, 2006, meeting in Santa Monica.

Interested parties may contact Mr. Kevin Hunting, Chief, Habitat Conservation Planning Branch, Department of Fish and Game, at telephone (916) 653-4875

for information on the petition or to submit information to the Department relating to the petitioned species.

FISH AND GAME COMMISSION

NOTICE OF RECEIPT OF PETITION

NOTICE IS HEREBY GIVEN that, pursuant to the provisions of Section 2073.3 of the Fish and Game Code, the California Fish and Game Commission, on September 1, 2006, received a petition from the Department of Fish and Game to remove Slender-pod jewel-flower (*Caulanthus stenocarpus*) from the list of rare plants.

Slender-pod jewelflower is no longer accepted as a distinct taxon; rather, it is considered to be San Diego jewel-flower (*Caulanthus heterophyllus* var. *heterophyllus*), which occurs in the La Panza Range of eastern San Luis Obispo County; in the coastal areas of Los Angeles, Orange, and Riverside counties and in the southern Peninsular Ranges, where it is common; and in the Transverse Ranges, where it is uncommon; and in Baja California.

Pursuant to Section 2074.2 of the Fish and Game Code, the Commission will consider this petition at its December 7, 2006, meeting in Santa Monica.

Interested parties may contact Mr. Kevin Hunting, Chief, Habitat Conservation Planning Branch, Department of Fish and Game, at telephone (916) 653-4875 for information on the petition or to submit information to the Department relating to the petitioned species.

FISH AND GAME COMMISSION

NOTICE OF RECEIPT OF PETITION

NOTICE IS HEREBY GIVEN that, pursuant to the provisions of Section 2073.3 of the Fish and Game Code, the California Fish and Game Commission, on September 1, 2006, received a petition from the Department of Fish and Game to remove Tracy's eriastrum (*Eriastrum tracyi*) from the list of rare plants.

Tracy's eriastrum is no longer considered a valid taxon; rather, it is consolidated with the more common taxon, Brandegee's eriastrum (*Eriastrum brandegeae*), which occurs in the northern and central Inner Coast Ranges of California.

Pursuant to Section 2074.2 of the Fish and Game Code, the Commission will consider this petition at its December 7, 2006, meeting in Santa Monica.

Interested parties may contact Mr. Kevin Hunting, Chief, Habitat Conservation Planning Branch, Department of Fish and Game, at telephone (916) 653-4875 for information on the petition or to submit information to the Department relating to the petitioned species.

FISH AND GAME COMMISSION

NOTICE OF RECEIPT OF PETITION

NOTICE IS HEREBY GIVEN that, pursuant to the provisions of Section 2073.3 of the Fish and Game Code, the California Fish and Game Commission, on September 1, 2006, received a petition from the Department of Fish and Game to remove Truckee barberry (*Mahonia sonnei*) from the list of endangered species.

Truckee barberry is no longer recognized as a valid taxon; rather, it is considered to be a form of the common species creeping barberry (*Berberis aquifolium* var. *repens*), which is widespread in the western United States and Canada.

Pursuant to Section 2074.2 of the Fish and Game Code, the Commission will consider this petition at its December 7, 2006, meeting in Santa Monica.

Interested parties may contact Mr. Kevin Hunting, Chief, Habitat Conservation Planning Branch, Department of Fish and Game, at telephone (916) 653-4875 for information on the petition or to submit information to the Department relating to the petitioned species.

FISH AND GAME COMMISSION

Notice of Proposed Changes in Regulations of the Fish and Game Commission

(Continuation of Register 2006, No. 35-Z, and Commission Meeting of August 4, 2006)

(NOTE: To be responsive to public input on proposed changes in the sport fishing regulations, the Commission is exercising its powers under Section 202 of the Fish and Game Code. Some changes to the proposed regulations may not be available to the public for the full public comment period prior to adoption. See the text of this notice.)

NOTICE IS HEREBY GIVEN that the Fish and Game Commission, pursuant to the authority vested by sections 200, 202, 205, 220 and 315 of the Fish and Game Code and to implement, interpret or make specific sections 200, 202, 205, 206 and 220 of said Code, proposes to amend sections 1.62, 1.63, 1.67, 2.00, 5.00, 5.80, 7.00, 7.50, 27.60, 27.65, 27.90, 27.95, 28.20, 29.70, 29.80, 195, and 701, Title 14, California Code of Regulations (CCR), as part of the proposed Sport Fishing Regulations for years 2007 through 2009 (as explained in the following two paragraphs).

Proposed changes to sections as set forth in the first notice regarding Sport Fishing Regulations (Notice Register 2006, No. 35-Z, published September 1, 2006) remain the same, **except for modifications**

based on additional public recommendations proposed for Sections 1.63, 2.00, 5.00, 7.50 and 29.80 (see Informative Digests below).

In addition, changes have also been proposed to section 29.85 (see Informative Digests below).

INFORMATIVE DIGESTS/POLICY STATEMENT OVERVIEW

Amend Section 1.63 Re: Movement of Live Fish

Currently Section 1.63, Title 14, California Code of Regulations (CCR), reads "Except as provided in sections 4.00 through 4.30 and 230, live fin fish taken under the authority of a sport fishing license may not be transported alive from the water where taken."

The phrase "taken under the authority of a sport fishing license" creates a loophole. Juveniles under the age of 16 are not required to possess a sport fishing license when fishing. This means that a juvenile could transport live sport taken fin fish and not be in violation of the law. Additionally, it could be argued that persons taking fin fish without first obtaining a sport fishing license would not be in violation of this section.

Lake Davis is a prime example of the adverse effect of transporting certain fish species from one location to another. The lake, which once supported a superb rainbow trout fishery, has now been taken over by northern pike believed to be illegally transplanted from unknown sources outside of California or possibly from nearby Frenchman Reservoir, where pike had also been illegally introduced. This pike population now threatens native salmon and steelhead populations found downstream in the Sacramento-San Joaquin river systems and Delta.

This regulation proposal will remove the reference to sport fishing license to clarify that it is illegal to transport live fin fish from the waters where taken. These proposed regulations will reduce public confusion and improve enforceability of the regulations.

Amend Section 2.00 Re: Fishing Methods — General

Section 2.00, Title 14, California Code of Regulations (CCR), outlines statewide fishing methods in inland waters, with some exceptions. Currently, the section states that fish may be taken by "angling" with one closely attended rod and line. Angling is defined as, "to take fish by hook and line with the line held in the hand, or with the line attached to a pole or rod held in the hand or closely attended in such manner that the fish voluntarily takes the bait or lure in its mouth."

There is nothing in Section 2.00 that specifically states an individual cannot keep snagged fish. Section

2.00 is commonly used when a citation is written to a subject for keeping a snagged fish and when citing a subject for unlawfully using more than one line in inland waters. This citing section sometimes confuses court personnel. They see Section 2.00 and assume the citation was issued for using more than one line, which is less heinous, than unlawfully snagging and keeping a fish unlawfully.

Since the section does not specifically mention or define snagging, the language is confusing to judges and court personnel. In order to cite for Section 2.00 officers must also explain the definition of angling in their report as well as to the court. In addition, when laws are unclear or confusing there is greater propensity for courts to dismiss cases resulting in lost revenue to the Department.

This regulation proposal adds additional language that clearly states it is illegal to kill or retain a fish that did not actively take the bait or lure in its mouth, **adds a definition of snagging**, and requires these fish to be released immediately unharmed into the water. The proposed changes will reduce public confusion and improve enforceability of the regulations.

Amend Section 5.00 and subsections (b)(68.3) and (73.5), Section 7.50

Re: Black Bass Seasons in Inyo, Shasta, Modoc, and Mono Counties and Repeal of Haiwee Reservoir Special Fishing Regulations

Under the current black bass regulations, it is legal to fish closed trout waters in Inyo and Mono counties for black bass all year. Enforcement staff is encountering increasing numbers of anglers that claim to be bass fishing while actually catch and release fishing for trout. During informal conversations with several anglers and one local fishing guide/outfitter, Enforcement has been told that some people are advocating catch and release trout fishing during closed trout season. In order to circumvent the current regulations, these anglers can claim to be bass fishing when contacted by a Warden. These areas are prized trout areas and the proposed regulation changes will help eliminate fishing for trout and the potential for hooking mortality on trout during the closed season.

Section 5.00(b)(5), is in direct conflict with Section 7.00(b)(7). Section 5.00(b)(5) states that all waters of Mono County are open to black bass fishing all year while Section 7.00(b)(7), states that Mono County waters are closed to all fishing when closed to trout fishing, except for unrestricted portions of Fish Slough which are open to fishing all year.

These proposed regulations will close the streams in the southwest portion of Inyo County (Section 7.00(b)(2), to black bass fishing when the trout season is

also closed and align the Mono County regulations in sections 5.00(b)(5) and 7.00(b)(7). These proposed regulation changes clarify conflicting regulations, reduce public confusion, and improve enforceability of the regulations.

Also in Inyo County, Haiwee Reservoir listed in sections 5.00(b)(16) and 7.50(b)(73.5), was closed by the Los Angeles Department of Water and Power (LADWP) to all public access, including fishing. This closure eliminates take—concerns outside of the general regulations and existing regulations could cause confusion for the public that the Haiwee Reservoir Special Fishing regulations may supersede LADWP's authority regarding trespass on LADWP lands. This proposed regulation is to remove Haiwee Reservoir from sections 5.00(b)(16) and 7.50(b)(73.5), to allow it to be covered under general fishing regulations and revise Section 7.50(b)(68.3), due to the renumbering of Section 5.00(b). This proposed regulation change will clarify conflicting regulations and reduce public confusion.

In Shasta County, Section 5.00(b)(7), allows for a year round black bass open season, while Section 7.00(b)(4), limits the trout fishing season on Big Lake to the last Saturday in April through November 15. Big Lake is fed by a series of artesian springs along its north shore in the vicinity of Ahjumawi Lava Springs State Park. The water temperature in winter months is warmer where the water flows from these springs and largemouth bass use this area as a thermal refuge. Local anglers have discovered this phenomenon and have been targeting largemouth bass during the trout fishing closure specified in Section 7.00(b)(4) which is intended to protect Fall River trout stocks. There is no biological evidence suggesting that the angling activity occurring at Big Lake has had any effect on Fall River trout populations. This regulation proposal will allow a winter catch and release fishery (November 16 through the last Friday in April) for black bass on Big Lake. Department of Fish and Game Enforcement staff and the local angling community are in support of the proposed regulation change. The proposal will remove Big Lake from the Shasta County black bass regulations in Section 5.00(b)(7) and place it in the Individual Bodies of Water section under a new Section 5.00(b)(9), with a season that runs from the last Saturday in April through November 15, with a 12" minimum size limit, daily bag of 5 and November 16 through the last Friday in April, daily bag limit of 0. This proposed regulation changes clarifies conflicting regulations, reduces public confusion, provides angling opportunity with negligible impacts on other aquatic resources, and improves enforceability of the regulations.

In Modoc County, Big Sage Reservoir is incorrectly identified as “Sage Reservoir” in Section 5.00(b)(4). The Big Sage Reservoir is the only correct name as shown on the Modoc National Forest and United States Geological Survey Quad series maps. This proposed regulation change would change the name to Big Sage Reservoir to provide consistency with identification of this body of water.

Minor changes are proposed to improve the clarity of the regulations.

**Amend subsection (b)(1) of Section 7.50, and
Add subsection (b)(1.5) of Section 7.50
Re: Alameda Creek and Tributaries
(Alameda Co.)**

Current sport fishing regulations for Alameda Creek are governed by South Central Fishing District general regulations, which allow for a daily bag limit of five trout from the last Saturday in April through November 15.

This proposal requests that Alameda Creek and its tributaries be restricted during the general trout season to a zero bag limit, and the use artificial lures with barbless hooks only.

Historically, the Alameda Creek watershed has supported a steelhead trout population. Due to various factors related to population growth and land development, stream habitat conditions for steelhead have become degraded over time and the current steelhead population is at a low level. In 1997, steelhead trout along the central coast of California were listed as Threatened pursuant to the federal Endangered Species Act. Several local groups and governmental agencies are currently pursuing various avenues to restore Alameda Creek steelhead with identified action items of removing barriers to upstream migration, improving stream flows and restoring other stream habitat conditions to benefit steelhead. Because of the continued low adult steelhead population levels, angler harvest of juvenile steelhead should be curtailed until restoration activities have shown measured results in improving the numbers of adult steelhead utilizing Alameda Creek.

This proposal aims to protect juvenile steelhead/rainbow trout that are present in all waters of the Alameda Creek watershed. It is highly likely that many of the rainbow trout currently residing in Alameda Creek could exhibit an anadromous behavior by migrating to the ocean if given the opportunity. Therefore, rainbow trout currently residing within the Alameda Creek watershed would play a vital role in steelhead recovery, if steelhead habitat and migration avenues improve. During migration to the reservoirs for growth, the upper watershed rainbow trout population exhibits characteristics similar to those of juvenile steelhead emigrating

from freshwater to the ocean. Assessments are currently underway to determine whether to use the upper watershed populations as genetic stock to jumpstart the anadromous steelhead run downstream once migration barriers in the lower watershed are remediated.

This proposal, therefore, provides for increased protection of juvenile steelhead/rainbow trout while also providing recreational, no-harvest fishing opportunities in Alameda Creek.

To retain consistency with the alphabetical order of streams in Section 7.50(b), it is recommended to assign Alanbique Creek a new subsection number of (b)(1.5) and assign Alameda Creek to subsection (b)(1).

**Add subsection (b)(6.5) of Section 7.50
Re: Antelope Lake Tributaries (Plumas County)**

Antelope Lake tributaries are currently regulated for trout fishing according to the Sierra District general regulations that allow for trout fishing in streams from the last Saturday in April through November 15. Spawning rainbow trout migrate from Antelope Lake to reproduce in Antelope Lake tributaries during mid-February through April. It has come to the Department's attention that a significant number of trout are still spawning in late April. The trout are highly vulnerable to harvest and harassment by anglers while spawning in the tributaries. This proposal would delay the opening of trout season in Antelope Lake tributaries approximately one month until the Saturday preceding Memorial Day. The end of trout season would remain unchanged at November 15, and bag limits would remain unchanged. The season change would be implemented by adding Antelope Lake tributaries to the alphabetical list of waters with special fishing regulations. This angling regulation amendment would offer added protection and enhancement for the naturally reproduced wild component of the Antelope Lake and Antelope Lake tributary trout population. Additionally, this proposed regulation would create consistency with the opening dates for other major Plumas County lakes (Almanor Lake, Bucks Lake, Butt Lake, and Davis Lake).

**Amend subsection (b)(20) of Section 7.50
Re: Big Chico Creek (Butte Co.)**

Current regulations in Big Chico Creek from Bear Hole to the upper boundary of the Big Chico Ecological Reserve provide for an open fishing season from November 15 through February 15. Only artificial lures with barbless hooks may be used and the bag limit is zero. This proposal recommends an extension to the current open season to allow a longer period for trout fishing opportunities. The new season recommendation is from November 1 through April 30.

Big Chico Creek currently supports a small remnant population of the state and federally listed spring-run Chinook salmon, and the federally listed steelhead trout. Additionally, late-fall and fall-run Chinook salmon spawn and rear in the lower reach of Big Chico Creek. Also found in the lower reach of the creek adjacent to the City of Chico are populations of bass and catfish that provide a popular recreational fishing opportunity. Spring-run Chinook salmon may enter Big Chico Creek as early as mid-February and will reside in the reach from Bear Hole to Higgins Hole Falls until spawning from mid-September through October. Steelhead enter the creek during the fall and winter dependent on flows, residing spawning and rearing in the reach from Bear Hole to Higgins Hole Falls.

This proposal will maintain protection for the listed spring run Chinook salmon and steelhead trout, while providing for expanded fishing opportunities. The proposed regulation allows a limited fishery after all spring run Chinook salmon have spawned, and due to the gear restriction and zero bag, affords a limited fishery without harm to steelhead trout. Additionally, the proposed regulation is compatible with regulations on nearby Yuba River, which also harbors populations of spring run Chinook salmon and steelhead trout.

**Repeal subsection (b)(59) of Section 7.50
Re: Don Pedro Lake (Tuolumne Co.)**

Current regulations close the Moccasin Creek Arm of Don Pedro Lake to fishing from October 16 through December 31 while the remainder of the lake is open to fishing all year. The Moccasin Creek restriction was implemented in 1984 at the request of the Department to protect adult inland salmon returning up Moccasin Creek from Don Pedro Lake to spawn. These adult salmon were used in the Department's experimental inland salmon brood-stock program. The rearing of salmon at Moccasin Creek Hatchery was terminated in 1985 and the release of salmon into the Moccasin Creek Arm is no longer being implemented. The current regulation closing the Moccasin Creek Arm to fishing during October 16 through December 31 is no longer necessary and this proposal recommends deleting the regulation.

**Add subsections (b)(111) and (b)(145) of
Section 7.50, and Amend subsection (b)(196)
of Section 7.50
Re: Truckee River and Tributaries (Nevada,
Placer and Sierra Cos.)**

Current regulations for the Truckee River from Lake Tahoe to the Nevada state line are divided into seven segments with different sport fishing regulations (Section 7.50(b)(196), Title 14, CCR). This array of regula-

tions maintains opportunities for diverse trout fishing interests and addresses different trout management goals but is complex and may be a source of confusion for anglers.

The majority of the Truckee River falls under the Sierra Fishing District general regulations, which allow for a daily bag limit of five trout from the last Saturday in April through November 15. A long segment of the river with these general regulations, from 1,000 feet below Lake Tahoe downstream to Trout Creek, is managed to provide anglers opportunity to fish with bait or other gear and take five trout. Portions of this reach are stocked with hatchery trout. The reach of the Truckee River from Trout Creek to Gray Creek, which is managed for wild trout, has four separate segments with the same two-trout bag limit but differences in gear or length restrictions. Tributaries in this reach of the Truckee are governed with the Sierra Fishing District general regulations.

This regulation proposal reduces the number of river segments with different regulations. For the Trout Creek to Gray Creek reach, three of the four segments with existing differences would change to have the same special regulations for bag limit, size limit, and gear restriction. The fourth segment, Glenshire Bridge to Prosser Creek, would retain its existing artificial flies with barbless hooks regulation. For the three segments with the 15-inch minimum size limit a change is proposed to 14 inches total length. This would help simplify size-limit categories, as this existing 15-inch minimum limit on the Truckee is the only one of its kind in the trout regulations.

Two important spawning tributaries, Martis Creek and Prosser Creek, fall in the District general regulations. This proposal would change those regulations so that Martis Creek and Prosser Creek below the reservoirs on each stream would have the same special regulations as the wild trout segments on the Truckee River (2-trout bag limit, 14-inch minimum size and artificial lures with barbless hooks). This change would provide some protection for rainbow and brown trout that migrate from the Truckee into these streams to spawn. The segment of the Truckee from Gray Creek downstream to the California-Nevada state line is managed for wild trout. This proposal would change the existing District general regulations in this segment to match the special regulations in the wild trout segments upstream (two-trout bag limit, artificial lures with barbless hooks, 14-inch minimum size total length).

The proposal will retain a diversity of trout angling opportunities that reflect management options that emphasize both wild trout and hatchery trout. The proposal simplifies regulations in the river segments managed for wild trout. Five segments with existing differences in regulations would be consolidated so that four of the

five would have the same regulations. There is considerable support in the local community for simplifying the Truckee River angling regulations

**Amend subsection (b)(129) of Section 7.50; and
Section 8.00(b)
Re: Napa River Special Regulations and Low Flow
Restrictions**

Presently the Napa River Special Regulations, Section 7.50(b)(129), Title 14, Code of California Regulations (CCR), allow salmon fishing in the main stem from the Lincoln Bridge in Calistoga to the Trancas Bridge. The Napa Resource Conservation District (RCD) aquatic biologists have been doing stream habitat and fishery surveys in the Napa River for the last few years. The RCD believes there is a significant Chinook spawning in the reach between the Lincoln Bridge in Calistoga and the Oakville Cross Road Bridge near Yountville. The RCD is concerned that the Napa River Chinook salmon run is in the 300–600 fish range, based on their own redd surveys. They are requesting the Department close this area to salmon fishing to protect the Chinook salmon redds.

The proposal would close the Napa River to salmon fishing year round between the Lincoln Bridge in Calistoga and the Oakville Cross Road Bridge near Yountville. Most of this reach is bordered by private land. This closure would result in a reduction of approximately 16 stream miles of river, and there is only one legal point for the public to access the river in this reach.

The Department at the RCD's request is proposing the Low Flow regulations (Section 8.00(b), Title 14, CCR) be revised to separate the Napa River from other Central Coast Streams which rely on 500 cubic feet per second (cfs) minimum flow from the Russian River gauge near Guerneville. This proposal would use the Napa River gauge near the city of Napa with a 15 cfs minimum flow for the Napa River. This proposal would use the stream hydrology of the Napa River instead of the unrelated flows measured on the Russian River in a different watershed.

The RCD will provide the Department with the necessary flow trigger information every Wednesday morning to update the public low flow closure notice maintained by the Department. The minimum flow of 15 cfs is a conservative number based on qualitative field experience of the RCD's aquatic biologists doing stream habitat and fishery surveys in the Napa River for the last few years. They are concerned that the Napa River Chinook salmon run ranges from 300 to 600 fish, based on their own redd surveys. Based upon the RCD's information, Chinook salmon may find their upstream passage impeded at minimum flows below 15 cfs following Department fish passage criteria.

This proposed change in the low flow restrictions will allow the Napa River restrictions to accurately monitor low fish passage conditions. It will help protect spawning adults under low flow conditions, when the success of the run may be impaired due to the inability of adults to reach the spawning grounds upstream, and may allow a few more adults to survive to spawn if flows come up later in the season.

The Department supports both these RCD proposals.

**Amend Section 29.80
Re: Disturbance of Sport Crustacean Traps**

Section 29.80, Title 14, CCR, specifies gear restrictions that apply for the recreational take of crustaceans, which may be caught by hand or with traps. In recent months, several Dungeness crab trap anglers have requested additional regulatory language be added to this Section that would prohibit unauthorized persons from taking crabs out of a recreational trap belonging to someone else.

Presently, general Penal Code provisions prevent theft of personal property, but because crabs that are enclosed in a trap have yet to be "possessed" by the trap owner, the crabs themselves are not the trapper's personal property. Therefore, there is no effective anti-theft enforcement mechanism at this time to prevent a recreational fisherman from "robbing" another sport trap.

The proposed language would make it unlawful to disturb, move, damage, or remove any saltwater crustacean from a trap that belongs to another person without written permission from the owner of the trap in his or her possession. By adding this provision to Section 29.80, it would apply for all crustacean traps, and therefore would be effective for sport prawn traps and hoop nets used for lobster, in addition to crab traps. The new regulations are intended to aid enforcement so that violators may be easily cited if caught pulling a trap that is not their own without written permission from the owner in his or her possession. They should also improve clarity and understanding for the public regarding this issue.

However, an enforcement officer must be able to establish who owns the trap in order to determine if a violation has occurred. Therefore, for a trap owner to benefit from enforcement of the proposed new regulation, he or she will need to label the trap and/or the trap buoy for identification purposes. If the trap's owner cannot readily be identified during patrol activities, the provision will have little force or effect.

**Amend Section 29.85
Re: Sport Dungeness Crab Opening Dates**

Section 29.85, Title 14, CCR, specifies the opening and closing dates for the recreational Dungeness crab

season. In Del Norte, Humboldt and Mendocino counties, the fishery is open from the Saturday preceding December 1, or December 1 when it falls on Saturday, through July 30. In all other counties, the season is open from the Saturday preceding the second Tuesday in November, through June 30.

The Department proposes the Commission slightly modify the language of these opening dates to improve clarity and understanding for the public. The proposed regulations would read so that in Del Norte, Humboldt and Mendocino counties, the fishery would be open from the last Saturday in November through July 30, and that in all other counties, the fishery would be open from the first Saturday in November through June 30. The simplified regulatory text should make it easier for most anglers to determine the opening date quickly, and possibly without needing to consult a calendar.

In comparing each year's opening date under the proposed regulatory language with the opening date that results under the current regulatory text, the actual opening date will be the same in most years, and thus, the proposed regulation change is expected to have no real effect on the water. The "head start" that the sport fishery is provided in advance of the commercial opener will continue for all areas of the state, and for about the same number of days.

NOTICE IS GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held at the Hubbs–Sea World Research Institute, Shedd Auditorium, 2595 Ingraham Street, San Diego, California, on Friday, October 6, 2006 at 8:30 a.m., or as soon thereafter as the matter may be heard.

NOTICE IS ALSO GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held at the City Council Chambers, 777 Cypress Avenue, Redding, California, on November 3, 2006, at 8:30 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments may be submitted on or before Friday, October 27, 2006 at the address given below, or by fax at (916) 653–5040, or by e–mail to FGC@dfg.ca.gov, but must be received no later than Friday, November 3, 2006 at the hearing in Redding. All correspondence, including E–mail, must include the true name and mailing address of the commenter.

NOTICE IS FURTHER GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held at the Santa Monica Library, Martin Luther King Jr. Auditorium 601 Santa Monica Blvd., Santa Monica, CA, on December 8, 2006, at 8:30 a.m., to consider adoption of the proposed Sport Fishing Regulations for the 2007 through 2009 seasons. Additional testimony on the pro-

posed regulations may be received if substantive changes result from the November 3, 2006, meeting or if regulatory alternatives are under consideration.

Draft environmental documents associated with the proposed regulatory actions are made available for comment commencing September 13, 2006. Oral or written comments relevant to these documents will be received at the October 6, 2006, meeting in San Diego. Written comments on these documents may be submitted to the Commission office (address given herein) until 5:00 p.m., November 7, 2006. Draft environmental documents are available for review at the Commission office and at the Department of Fish and Game's headquarters office (same address as Commission). Copies of the documents are also available for review at the Department offices in Redding, Rancho Cordova, Yountville, Fresno, Bishop, Eureka, Menlo Park, Monterey, Ontario and San Diego. **NO WRITTEN COMMENTS ON THE DRAFT ENVIRONMENTAL DOCUMENTS WILL BE ACCEPTED AFTER 5:00 P.M. ON NOVEMBER 7, 2006.**

The regulations as proposed in strikeout–underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, John Carlson, Jr., Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244–2090, phone (916) 653–4899. Please direct requests for the above mentioned documents and inquiries concerning the regulatory process to John Carlson, Jr., or Jon D. Snellstrom at the preceding address or phone number. **Scott Barrow, Department of Fish and Game, phone (916) 651–7670, has been designated to respond to questions on the substance of the proposed regulations.** Copies of the Initial Statement of Reasons, including the regulatory language, may be obtained from the address above. Notice of the proposed action shall be posted on the Fish and Game Commission website at <http://www.fgc.ca.gov>.

Availability of Modified Text

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Circumstances beyond the control of the Commission (e.g., timing of Federal regulation adoption, timing of resource data collection, timelines do not allow, etc.) or changes made to be responsive to public recommendation and comments during the regulatory process may preclude full compliance with the 15–day comment period, and the Commission will exercise its powers under Section 202 of the Fish and Game Code. Regulations adopted pursuant

to this section are not subject to the time periods for adoption, amendment or repeal of regulations prescribed in Sections 11343.4, 11346.4 and 11346.8 of the Government Code. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from the agency program staff.

Impact of Regulatory Action

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

(a) Significant Statewide Adverse Economic Impact Directly Affecting Business, including the Ability of California Businesses to Compete with Businesses in Other States:

Section 1.63

Re: Movement of Live Fish

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposed regulation clarifies existing regulations.

Section 2.00

Re: Fishing Methods — General

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposed regulation change clarifies existing regulations **and adds a definition of snagging.**

Sections 5.00 and Subsections 7.50(b)(68.3) and Repeal Subsection 7.50(b)(73.5)

Re: Black Bass Seasons in Inyo, Shasta, Modoc, and Mono Counties and Repeal of Haiwee Reservoir Special Fishing Regulations

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. These regulation changes simply clarify existing language and remove any angler perceived loopholes. No economic impacts are anticipated.

Subsections (b)(1) and (1.5) of Section 7.50

Re: Alameda Creek and Tributaries (Alameda Co.)

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to

compete with businesses in other states. The changes are necessary to protect juvenile and adult steelhead.

Subsection (b)(6.5) of Section 7.50

Re: Antelope Lake Tributaries (Plumas County)

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposed regulations increase fishing opportunities.

Subsection (b)(20) of Section 7.50

Re: Big Chico Creek (Butte Co.)

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposed regulations increase fishing opportunities.

Subsection (b)(59) of Section 7.50

Re: Don Pedro Lake (Tuolumne Co.)

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposed regulations increase fishing opportunities.

Subsections (b)(111) and (145) of Section 7.50

Re: Truckee River and Tributaries (Nevada, Placer and Sierra Cos.)

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The changes are necessary to simplify complicated regulations for the Truckee River and protect spawning trout in two important tributaries, Mantis Creek and Prosser Creek.

Subsection (b)(129) of Section 7.50; and Section 8.00 Re: Napa River Special Regulations and Low Flow Restrictions

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposal will provide additional protection for Chinook salmon.

Amend Section 29.80

Re: Take of Crustaceans While Diving

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. Adding regulations that specify it is unlawful to disturb, move, damage, or remove any saltwater crustacean from a trap that belongs to another person without written permission is proposed to aid enforcement and improve clarity and understanding for the public.

Amend Section 29.85

Re: Sport Dungeness Crab Opening Dates

The proposed action will not have a significant state-wide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

The change is proposed only to improve clarity and public understanding of the sport Dungeness crab opening dates.

- (b) Impact on the Creation or Elimination of Jobs within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California: None.
- (c) Cost Impacts on a Representative Private Person or Business:
The Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:
None.
- (e) Nondiscretionary Costs/Savings to Local Agencies: None.
- (f) Programs Mandated on Local Agencies or School Districts: None.
- (g) Costs Imposed on any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4:
None.
- (h) Effect on Housing Costs: None.

Effect on Small Business

It has been determined that the adoption of these regulations may affect small business.

Consideration of Alternatives

The Commission must determine that no reasonable alternative considered by the Commission, or that has

otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

PROPOSITION 65

**OFFICE OF ENVIRONMENTAL
HEALTH HAZARD ASSESSMENT**

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF ENVIRONMENTAL HEALTH
HAZARD ASSESSMENT
SAFE DRINKING WATER AND TOXIC
ENFORCEMENT ACT OF 1986

CHEMICALS KNOWN TO THE STATE TO
CAUSE CANCER OR REPRODUCTIVE
TOXICITY
SEPTEMBER 29, 2006

The Safe Drinking Water and Toxic Enforcement Act of 1986 requires that the Governor revise and republish at least once per year the list of chemicals known to the State to cause cancer or reproductive toxicity. The identification number indicated in the following list is the Chemical Abstracts Service (CAS) Registry Number. No CAS number is given when several substances are presented as a single listing. The date refers to the initial appearance of the chemical on the list. For easy reference, chemicals which are shown underlined are newly added. Chemicals which are shown with a strikethrough were placed on the list with the date noted, and have subsequently been removed.

CHEMICALS KNOWN TO THE STATE TO CAUSE CANCER

<u>Chemical</u>	<u>CASNumber</u>	<u>Date</u>
A-alpha-C (2-Amino-9H-pyrido[2,3-b]indole)	26148-68-5	January 1, 1990
Acetaldehyde	75-07-0	April 1, 1988
Acetamide	60-35-5	January 1, 1990
Acetochlor	34256-82-1	January 1, 1989
2-Acetylaminofluorene	53-96-3	July 1, 1987
Acifluorfen	62476-59-9	January 1, 1990
Acrylamide	79-06-1	January 1, 1990
Acrylonitrile	107-13-1	July 1, 1987
Actinomycin D	50-76-0	October 1, 1989
AF-2; [2-(2-furyl)-3-(5-nitro-2-furyl)]acrylamide	3688-53-7	July 1, 1987
Aflatoxins	—	January 1, 1988

<u>Chemical</u>	<u>CAS Number</u>	<u>Date</u>
Alachlor	15972-60-8	January 1, 1989
Alcoholic beverages, when associated with alcohol abuse	—	July 1, 1988
Aldrin	309-00-2	July 1, 1988
Allyl chloride Delisted October 29, 1999	107-05-1	January 1, 1990
2-Aminoanthraquinone	117-79-3	October 1, 1989
p-Aminoazobenzene	60-09-3	January 1, 1990
ortho-Aminoazotoluene	97-56-3	July 1, 1987
4-Aminobiphenyl (4-aminodiphenyl)	92-67-1	February 27, 1987
1-Amino-2,4-dibromoanthraquinone	81-49-2	August 26, 1997
3-Amino-9-ethylcarbazole hydrochloride	6109-97-3	July 1, 1989
2-Aminofluorene	153-78-6	January 29, 1999
1-Amino-2-methylantraquinone	82-28-0	October 1, 1989
2-Amino-5-(5-nitro-2-furyl)-1,3,4-thiadiazole	712-68-5	July 1, 1987
4-Amino-2-nitrophenol	119-34-6	January 29, 1999
Amitrole	61-82-5	July 1, 1987
Analgesic mixtures containing phenacetin	—	February 27, 1987
Aniline	62-53-3	January 1, 1990
Aniline hydrochloride	142-04-1	May 15, 1998
ortho-Anisidine	90-04-0	July 1, 1987
ortho-Anisidine hydrochloride	134-29-2	July 1, 1987
Antimony oxide (Antimony trioxide)	1309-64-4	October 1, 1990
Aramite	140-57-8	July 1, 1987
Areca nut	—	February 3, 2006
Aristolochic acids	—	July 9, 2004
Arsenic (inorganic arsenic compounds)	—	February 27, 1987
Asbestos	1332-21-4	February 27, 1987
Auramine	492-80-8	July 1, 1987
Azacitidine	320-67-2	January 1, 1992
Azaserine	115-02-6	July 1, 1987
Azathioprine	446-86-6	February 27, 1987
Azobenzene	103-33-3	January 1, 1990
Benz[a]anthracene	56-55-3	July 1, 1987
Benzene	71-43-2	February 27, 1987
Benzidine [and its salts]	92-87-5	February 27, 1987
Benzidine-based dyes	—	October 1, 1992
Benzo[b]fluoranthene	205-99-2	July 1, 1987
Benzo[j]fluoranthene	205-82-3	July 1, 1987
Benzo[k]fluoranthene	207-08-9	July 1, 1987
Benzofuran	271-89-6	October 1, 1990
Benzo[a]pyrene	50-32-8	July 1, 1987
Benzotrichloride	98-07-7	July 1, 1987
Benzyl chloride	100-44-7	January 1, 1990
Benzyl violet 4B	1694-09-3	July 1, 1987
Beryllium and beryllium compounds	—	October 1, 1987
Betel quid with tobacco	—	January 1, 1990
Betel quid without tobacco	—	February 3, 2006
2,2-Bis(bromomethyl)-1,3-propanediol	3296-90-0	May 1, 1996
Bis(2-chloroethyl)ether	111-44-4	April 1, 1988
N,N-Bis(2-chloroethyl)-2-naphthylamine (Chlornapazine)	494-03-1	February 27, 1987
Bischloroethyl nitrosourea (BCNU) (Carmustine)	154-93-8	July 1, 1987
Bis(chloromethoxy)ether	542-88-1	February 27, 1987
Bis(2-chloro-1-methylethyl) ether, technical grade	—	October 29, 1999

<i>Chemical</i>	<i>CASNumber</i>	<i>Date</i>
Bitumens, extracts of steam-refined and air refined	—	January 1, 1990
Bracken fern	—	January 1, 1990
Bromate	15541-45-4	May 31, 2002
Bromodichloromethane	75-27-4	January 1, 1990
Bromoethane	74-96-4	December 22, 2000
Bromoform	75-25-2	April 1, 1991
1,3-Butadiene	106-99-0	April 1, 1988
1,4-Butanediol dimethane-sulfonate (Busulfan)	55-98-1	February 27, 1987
Butylated hydroxyanisole	25013-16-5	January 1, 1990
beta-Butyrolactone	3068-88-0	July 1, 1987
Cacodylic acid	75-60-5	May 1, 1996
Cadmium and cadmium compounds	—	October 1, 1987
Caffeic acid	331-39-5	October 1, 1994
Captafol	2425-06-1	October 1, 1988
Captan	133-06-2	January 1, 1990
Carbazole	86-74-8	May 1, 1996
Carbon black (airborne, unbound particles of respirable size)	1333-86-4	February 21, 2003
Carbon tetrachloride	56-23-5	October 1, 1987
Carbon-black extracts	—	January 1, 1990
N-Carboxymethyl-N-nitrosourea	60391-92-6	January 25, 2002
Catechol	120-80-9	July 15, 2003
Ceramic fibers (airborne particles of respirable size)	—	July 1, 1990
Certain combined chemotherapy for lymphomas	—	February 27, 1987
Chlorambucil	305-03-3	February 27, 1987
Chloramphenicol	56-75-7	October 1, 1989
Chlordane	57-74-9	July 1, 1988
Chlordecone (Kepone)	143-50-0	January 1, 1988
Chlordimeform	6164-98-3	January 1, 1989
Chlorendic acid	115-28-6	July 1, 1989
Chlorinated paraffins (Average chain length, C12; approximately 60 percent chlorine by weight)	108171-26-2	July 1, 1989
p-Chloroaniline	106-47-8	October 1, 1994
p-Chloroaniline hydrochloride	20265-96-7	May 15, 1998
Chlorodibromomethane <u>Delisted October 29, 1999</u>	124-48-1	January 1, 1990
Chloroethane (Ethyl chloride)	75-00-3	July 1, 1990
1-(2-Chloroethyl)-3-cyclohexyl-1-nitrosourea (CCNU) (Lomustine)	13010-47-4	January 1, 1988
1-(2-Chloroethyl)-3-(4-methylcyclohexyl)-1-nitrosourea (Methyl-CCNU)	13909-09-6	October 1, 1988
Chloroform	67-66-3	October 1, 1987
Chloromethyl methyl ether (technical grade)	107-30-2	February 27, 1987
3-Chloro-2-methylpropene	563-47-3	July 1, 1989
1-Chloro-4-nitrobenzene	100-00-5	October 29, 1999
4-Chloro-ortho-phenylenediamine	95-83-0	January 1, 1988
p-Chloro-o-toluidine	95-69-2	January 1, 1990
p-Chloro-o-toluidine, strong acid salts of	—	May 15, 1998
5-Chloro-o-toluidine and its strong acid salts	—	October 24, 1997
Chloroprene	126-99-8	June 2, 2000
Chlorothalonil	1897-45-6	January 1, 1989
Chlorotrianisene	569-57-3	September 1, 1996
Chlorozotocin	54749-90-5	January 1, 1992
Chromium (hexavalent compounds)	—	February 27, 1987
Chrysene	218-01-9	January 1, 1990

<u>Chemical</u>	<u>CAS Number</u>	<u>Date</u>
C.I. Acid Red 114	6459-94-5	July 1, 1992
C.I. Basic Red 9 monohydrochloride	569-61-9	July 1, 1989
C.I. Direct Blue 15	2429-74-5	August 26, 1997
C.I. Direct Blue 218	28407-37-6	August 26, 1997
C.I. Solvent Yellow 14	842-07-9	May 15, 1998
Ciclosporin (Cyclosporin A; Cyclosporine)	59865-13-3	January 1, 1992
	79217-60-0	
Cidofovir	113852-37-2	January 29, 1999
Cinnamyl anthranilate	87-29-6	July 1, 1989
Cisplatin	15663-27-1	October 1, 1988
Citrus Red No. 2	6358-53-8	October 1, 1989
Clofibrate	637-07-0	September 1, 1996
Cobalt metal powder	7440-48-4	July 1, 1992
Cobalt [II] oxide	1307-96-6	July 1, 1992
Cobalt sulfate	10124-43-3	May 20, 2005
Cobalt sulfate heptahydrate	10026-24-1	June 2, 2000
Coke oven emissions	—	February 27, 1987
Conjugated estrogens	—	February 27, 1987
Creosotes	—	October 1, 1988
para-Cresidine	120-71-8	January 1, 1988
Cupferron	135-20-6	January 1, 1988
Cycasin	14901-08-7	January 1, 1988
Cyclophosphamide (anhydrous)	50-18-0	February 27, 1987
Cyclophosphamide (hydrated)	6055-19-2	February 27, 1987
Cytembena	21739-91-3	May 15, 1998
D&C Orange No. 17	3468-63-1	July 1, 1990
D&C Red No. 8	2092-56-0	October 1, 1990
D&C Red No. 9	5160-02-1	July 1, 1990
D&C Red No. 19	81-88-9	July 1, 1990
Dacarbazine	4342-03-4	January 1, 1988
Daminozide	1596-84-5	January 1, 1990
Dantron (Chrysazin; 1,8-Dihydroxyanthraquinone)	117-10-2	January 1, 1992
Daunomycin	20830-81-3	January 1, 1988
DDD (Dichlorodiphenyldichloroethane)	72-54-8	January 1, 1989
DDE (Dichlorodiphenyldichloroethylene)	72-55-9	January 1, 1989
DDT (Dichlorodiphenyltrichloroethane)	50-29-3	October 1, 1987
DDVP (Dichlorvos)	62-73-7	January 1, 1989
N,N'-Diacetylbenzidine	613-35-4	October 1, 1989
2,4-Diaminoanisole	615-05-4	October 1, 1990
2,4-Diaminoanisole sulfate	39156-41-7	January 1, 1988
4,4'-Diaminodiphenyl ether (4,4'-Oxydianiline)	101-80-4	January 1, 1988
2,4-Diaminotoluene	95-80-7	January 1, 1988
Diaminotoluene (mixed)	—	January 1, 1990
Diazoaminobenzene	136-35-6	May 20, 2005
Dibenz[a,h]acridine	226-36-8	January 1, 1988
Dibenz[a,j]acridine	224-42-0	January 1, 1988
Dibenz[a,h]anthracene	53-70-3	January 1, 1988
7H-Dibenzo[c,g]carbazole	194-59-2	January 1, 1988
Dibenzo[a,e]pyrene	192-65-4	January 1, 1988
Dibenzo[a,h]pyrene	189-64-0	January 1, 1988
Dibenzo[a,i]pyrene	189-55-9	January 1, 1988
Dibenzo[a,l]pyrene	191-30-0	January 1, 1988
1,2-Dibromo-3-chloropropane (DBCP)	96-12-8	July 1, 1987

<i>Chemical</i>	<i>CASNumber</i>	<i>Date</i>
2, 3-Dibromo-1-propanol	96-13-9	October 1, 1994
Dichloroacetic acid	79-43-6	May 1, 1996
p-Dichlorobenzene	106-46-7	January 1, 1989
3,3' -Dichlorobenzidine	91-94-1	October 1, 1987
3,3' -Dichlorobenzidine dihydrochloride	612-83-9	May 15, 1998
1,4-Dichloro-2-butene	764-41-0	January 1, 1990
3,3' -Dichloro-4,4' -diaminodiphenyl ether	28434-86-8	January 1, 1988
1,1-Dichloroethane	75-34-3	January 1, 1990
Dichloromethane (Methylene chloride)	75-09-2	April 1, 1988
1,2-Dichloropropane	78-87-5	January 1, 1990
1,3-Dichloropropene	542-75-6	January 1, 1989
Dieldrin	60-57-1	July 1, 1988
Dienestrol	84-17-3	January 1, 1990
Diepoxybutane	1464-53-5	January 1, 1988
Diesel engine exhaust	—	October 1, 1990
Di(2-ethylhexyl)phthalate	117-81-7	January 1, 1988
1,2-Diethylhydrazine	1615-80-1	January 1, 1988
Diethyl sulfate	64-67-5	January 1, 1988
Diethylstilbestrol (DES)	56-53-1	February 27, 1987
Diglycidyl resorcinol ether (DGRE)	101-90-6	July 1, 1989
Dihydrosafrole	94-58-6	January 1, 1988
Diisopropyl sulfate	2973-10-6	April 1, 1993
3,3' -Dimethoxybenzidine (ortho-Dianisidine)	119-90-4	January 1, 1988
3,3' -Dimethoxybenzidine dihydrochloride (ortho-Dianisidine dihydrochloride)	20325-40-0	October 1, 1990
3,3' -Dimethoxybenzidine-based dyes metabolized to 3,3' -dimethoxybenzidine	—	June 11, 2004
3,3' -Dimethylbenzidine-based dyes metabolized to 3,3' -dimethylbenzidine	—	June 11, 2004
Dimethyl sulfate	77-78-1	January 1, 1988
4-Dimethylaminoazobenzene	60-11-7	January 1, 1988
trans-2-[(Dimethylamino)methylimino]-5-[2-(5-nitro-2-furyl)vinyl]-1,3,4-oxadiazole	55738-54-0	January 1, 1988
7,12-Dimethylbenz(a)anthracene	57-97-6	January 1, 1990
3,3' -Dimethylbenzidine (ortho-Tolidine)	119-93-7	January 1, 1988
3,3' -Dimethylbenzidine dihydrochloride	612-82-8	April 1, 1992
Dimethylcarbamoyl chloride	79-44-7	January 1, 1988
1,1-Dimethylhydrazine (UDMH)	57-14-7	October 1, 1989
1,2-Dimethylhydrazine	540-73-8	January 1, 1988
Dimethylvinylchloride	513-37-1	July 1, 1989
3,7-Dinitrofluoranthene	105735-71-5	August 26, 1997
3,9-Dinitrofluoranthene	22506-53-2	August 26, 1997
1,6-Dinitropyrene	42397-64-8	October 1, 1990
1,8-Dinitropyrene	42397-65-9	October 1, 1990
Dinitrotoluene mixture, 2,4-/2,6-	—	May 1, 1996
2,4-Dinitrotoluene	121-14-2	July 1, 1988
2,6-Dinitrotoluene	606-20-2	July 1, 1995
Di-n-propyl isocinchomeronate (MGK Repellent 326)	136-45-8	May 1, 1996
1,4-Dioxane	123-91-1	January 1, 1988
Diphenylhydantoin (Phenytoin)	57-41-0	January 1, 1988
Diphenylhydantoin (Phenytoin), sodium salt	630-93-3	January 1, 1988
Direct Black 38 (technical grade)	1937-37-7	January 1, 1988
Direct Blue 6 (technical grade)	2602-46-2	January 1, 1988

<i>Chemical</i>	<i>CAS Number</i>	<i>Date</i>
Direct Brown 95 (technical grade)	16071-86-6	October 1, 1988
Disperse Blue 1	2475-45-8	October 1, 1990
Diuron	330-54-1	May 31, 2002
Doxorubicin hydrochloride (Adriamycin)	23214-92-8	July 1, 1987
Epichlorohydrin	106-89-8	October 1, 1987
Erionite	12510-42-8/ 66733-21-9	October 1, 1988
Estradiol 17B	50-28-2	January 1, 1988
Estragole	140-67-0	October 29, 1999
Estrogens, steroidal	—	August 19, 2005
Estrone	53-16-7	January 1, 1988
Estropipate	7280-37-7	August 26, 1997
Ethinylestradiol	57-63-6	January 1, 1988
Ethoprop	13194-48-4	February 27, 2001
Ethyl acrylate	140-88-5	July 1, 1989
Ethylbenzene	100-41-4	June 11, 2004
Ethyl methanesulfonate	62-50-0	January 1, 1988
Ethyl-4,4'-dichloro-benzilate	510-15-6	January 1, 1990
Ethylene dibromide	106-93-4	July 1, 1987
Ethylene dichloride (1,2-Dichloroethane)	107-06-2	October 1, 1987
Ethylene oxide	75-21-8	July 1, 1987
Ethylene thiourea	96-45-7	January 1, 1988
Ethyleneimine	151-56-4	January 1, 1988
Fenoxycarb	72490-01-8	June 2, 2000
Folpet	133-07-3	January 1, 1989
Formaldehyde (gas)	50-00-0	January 1, 1988
2-(2-Formylhydrazino)-4-(5-nitro-2-furyl)thiazole	3570-75-0	January 1, 1988
Fumonisin B ₁	116355-83-0	November 14, 2003
Furan	110-00-9	October 1, 1993
Furazolidone	67-45-8	January 1, 1990
Furmecyclox	60568-05-0	January 1, 1990
Fusarin C	79748-81-5	July 1, 1995
Ganciclovir sodium	82410-32-0	August 26, 1997
Gasoline engine exhaust (condensates/extracts)	—	October 1, 1990
Gemfibrozil	25812-30-0	December 22, 2000
Glasswool fibers (airborne particles of respirable size)	—	July 1, 1990
Glu-P-1 (2-Amino-6-methyldipyrido[1,2-a:3',2'-d]imidazole)	67730-11-4	January 1, 1990
Glu-P-2 (2-Aminodipyrido[1,2-a:3',2'-d]imidazole)	67730-10-3	January 1, 1990
Glycidaldehyde	765-34-4	January 1, 1988
Glycidol	556-52-5	July 1, 1990
Griseofulvin	126-07-8	January 1, 1990
Gyromitrin (Acetaldehyde methyl-formylhydrazone)	16568-02-8	January 1, 1988
HC Blue 1	2784-94-3	July 1, 1989
Heptachlor	76-44-8	July 1, 1988
Heptachlor epoxide	1024-57-3	July 1, 1988
Herbal remedies containing plant species of the genus Aristolochia	—	July 9, 2004
Hexachlorobenzene	118-74-1	October 1, 1987
Hexachlorocyclohexane (technical grade)	—	October 1, 1987
Hexachlorodibenzodioxin	34465-46-8	April 1, 1988
Hexachloroethane	67-72-1	July 1, 1990
2,4-Hexadienal (89% trans, trans isomer; 11% cis, trans isomer)	—	March 4, 2005
Hexamethylphosphoramide	680-31-9	January 1, 1988

<u>Chemical</u>	<u>CASNumber</u>	<u>Date</u>
Hydrazine	302-01-2	January 1, 1988
Hydrazine sulfate	10034-93-2	January 1, 1988
Hydrazobenzene(1,2-Diphenylhydrazine)	122-66-7	January 1, 1988
1-Hydroxyanthraquinone	129-43-1	May 27, 2005
Indeno [1,2,3-cd]pyrene	193-39-5	January 1, 1988
Indium phosphide	22398-80-7	February 27, 2001
IQ (2-Amino-3-methylimidazo[4,5-f]quinoline)	76180-96-6	April 1, 1990
Iprodione	36734-19-7	May 1, 1996
Iron dextran complex	9004-66-4	January 1, 1988
Isobutyl nitrite	542-56-3	May 1, 1996
Isoprene	78-79-5	May 1, 1996
Isosafrole	120-58-1	October 1, 1989
Isoxaflutole	141112-29-0	December 22, 2000
Lactofen	77501-63-4	January 1, 1989
Lasiocarpine	303-34-4	April 1, 1988
Lead acetate	301-04-2	January 1, 1988
Lead and lead compounds	—	October 1, 1992
Lead phosphate	7446-27-7	April 1, 1988
Lead subacetate	1335-32-6	October 1, 1989
Lindane and other hexachlorocyclohexane isomers	—	October 1, 1989
Lynestrenol	52-76-6	February 27, 2001
Mancozeb	8018-01-7	January 1, 1990
Maneb	12427-38-2	January 1, 1990
Me-A-alpha-C (2-Amino-3-methyl-9H-pyrido[2,3-b]indole)	68006-83-7	January 1, 1990
Medroxyprogesterone acetate	71-58-9	January 1, 1990
MeIQ(2-Amino-3,4-dimethylimidazo[4,5-f]quinoline)	77094-11-2	October 1, 1994
MeIQx(2-Amino-3,8-dimethylimidazo[4,5-f]quinoxaline)	77500-04-0	October 1, 1994
Melphalan	148-82-3	February 27, 1987
Merphalan	531-76-0	April 1, 1988
Mestranol	72-33-3	April 1, 1988
Metham sodium	137-42-8	November 6, 1998
8-Methoxypsoralen with ultraviolet A therapy	298-81-7	February 27, 1987
5-Methoxypsoralen with ultraviolet A therapy	484-20-8	October 1, 1988
2-Methylaziridine (Propyleneimine)	75-55-8	January 1, 1988
Methylazoxymethanol	590-96-5	April 1, 1988
Methylazoxymethanol acetate	592-62-1	April 1, 1988
Methyl carbamate	598-55-0	May 15, 1998
3-Methylcholanthrene	56-49-5	January 1, 1990
5-Methylchrysene	3697-24-3	April 1, 1988
4,4' -Methylene bis(2-chloroaniline)	101-14-4	July 1, 1987
4,4' -Methylene bis(N,N-dimethyl)benzenamine	101-61-1	October 1, 1989
4,4' -Methylene bis(2-methylaniline)	838-88-0	April 1, 1988
4,4' -Methylenedianiline	101-77-9	January 1, 1988
4,4' -Methylenedianiline dihydrochloride	13552-44-8	January 1, 1988
Methyleugenol	93-15-2	November 16, 2001
Methylhydrazine and its salts	—	July 1, 1992
Methyl iodide	74-88-4	April 1, 1988
Methylmercury compounds	—	May 1, 1996
Methyl methanesulfonate	66-27-3	April 1, 1988
2-Methyl-1-nitroanthraquinone (of uncertain purity)	129-15-7	April 1, 1988
N-Methyl-N' -nitro-N-nitrosoguanidine	70-25-7	April 1, 1988
N-Methylolacrylamide	924-42-5	July 1, 1990
Methylthiouracil	56-04-2	October 1, 1989

<i>Chemical</i>	<i>CAS Number</i>	<i>Date</i>
Metiram	9006-42-2	January 1, 1990
Metronidazole	443-48-1	January 1, 1988
Michler's ketone	90-94-8	January 1, 1988
Mirex	2385-85-5	January 1, 1988
Mitomycin C	50-07-7	April 1, 1988
Monocrotaline	315-22-0	April 1, 1988
5-(Morpholinomethyl)-3-[(5-nitro-furfurylidene)-amino] -2-oxazolidinone	139-91-3	April 1, 1988
Mustard Gas	505-60-2	February 27, 1987
MX (3-chloro-4-(dichloromethyl)-5-hydroxy-2(5H)-furanone)	77439-76-0	December 22, 2000
Nafenopin	3771-19-5	April 1, 1988
Nalidixic acid	389-08-2	May 15, 1998
Naphthalene	91-20-3	April 19, 2002
1-Naphthylamine	134-32-7	October 1, 1989
2-Naphthylamine	91-59-8	February 27, 1987
Nickel (Metallic)	7440-02-0	October 1, 1989
Nickel acetate	373-02-4	October 1, 1989
Nickel carbonate	3333-67-3	October 1, 1989
Nickel carbonyl	13463-39-3	October 1, 1987
Nickel compounds	—	May 7, 2004
Nickel hydroxide	12054-48-7; 12125-56-3	October 1, 1989
Nickelocene	1271-28-9	October 1, 1989
Nickel oxide	1313-99-1	October 1, 1989
Nickel refinery dust from the pyrometallurgical process	—	October 1, 1987
Nickel subsulfide	12035-72-2	October 1, 1987
Niridazole	61-57-4	April 1, 1988
Nitrapyrin	1929-82-4	October 5, 2005
Nitrilotriacetic acid	139-13-9	January 1, 1988
Nitrilotriacetic acid, trisodium salt monohydrate	18662-53-8	April 1, 1989
5-Nitroacenaphthene	602-87-9	April 1, 1988
5-Nitro-o-anisidine	99-59-2	October 1, 1989
o-Nitroanisole	91-23-6	October 1, 1992
Nitrobenzene	98-95-3	August 26, 1997
4-Nitrobiphenyl	92-93-3	April 1, 1988
6-Nitrochrysene	7496-02-8	October 1, 1990
Nitrofen (technical grade)	1836-75-5	January 1, 1988
2-Nitrofluorene	607-57-8	October 1, 1990
Nitrofurazone	59-87-0	January 1, 1990
1-[(5-Nitrofurfurylidene)-amino]-2-imidazolidinone	555-84-0	April 1, 1988
N-[4-(5-Nitro-2-furyl)-2-thiazolyl]acetamide	531-82-8	April 1, 1988
Nitrogen mustard (Mechlorethamine)	51-75-2	January 1, 1988
Nitrogen mustard hydrochloride (Mechlorethamine hydrochloride)	55-86-7	April 1, 1988
Nitrogen mustard N-oxide	126-85-2	April 1, 1988
Nitrogen mustard N-oxide hydrochloride	302-70-5	April 1, 1988
Nitromethane	75-52-5	May 1, 1997
2-Nitropropane	79-46-9	January 1, 1988
1-Nitropyrene	5522-43-0	October 1, 1990
4-Nitropyrene	57835-92-4	October 1, 1990
N-Nitrosodi-n-butylamine	924-16-3	October 1, 1987
N-Nitrosodiethanolamine	1116-54-7	January 1, 1988
N-Nitrosodiethylamine	55-18-5	October 1, 1987
N-Nitrosodimethylamine	62-75-9	October 1, 1987

<u>Chemical</u>	<u>CASNumber</u>	<u>Date</u>
p-Nitrosodiphenylamine	156-10-5	January 1, 1988
N-Nitrosodiphenylamine	86-30-6	April 1, 1988
N-Nitrosodi-n-propylamine	621-64-7	January 1, 1988
N-Nitroso-N-ethylurea	759-73-9	October 1, 1987
3-(N-Nitrosomethylamino)propionitrile	60153-49-3	April 1, 1990
4-(N-Nitrosomethylamino)-1-(3-pyridyl)1-butanone	64091-91-4	April 1, 1990
N-Nitrosomethylethylamine	10595-95-6	October 1, 1989
N-Nitroso-N-methylurea	684-93-5	October 1, 1987
N-Nitroso-N-methylurethane	615-53-2	April 1, 1988
N-Nitrosomethylvinylamine	4549-40-0	January 1, 1988
N-Nitrosomorpholine	59-89-2	January 1, 1988
N-Nitrosornicotine	16543-55-8	January 1, 1988
N-Nitrosopiperidine	100-75-4	January 1, 1988
N-Nitrosopyrrolidine	930-55-2	October 1, 1987
N-Nitrososarcosine	13256-22-9	January 1, 1988
o-Nitrotoluene	88-72-2	May 15, 1998
Norethisterone (Norethindrone)	68-22-4	October 1, 1989
Norethynodrel	68-23-5	February 27, 2001
Ochratoxin A	303-47-9	July 1, 1990
Oil Orange SS	2646-17-5	April 1, 1988
Oral contraceptives, combined	—	October 1, 1989
Oral contraceptives, sequential	—	October 1, 1989
Oxadiazon	19666-30-9	July 1, 1991
Oxazepam	604-75-1	October 1, 1994
Oxymetholone	434-07-1	January 1, 1988
<u>Oxythioquinox (Chinomethionat)</u>	2439-01-2	August 20, 1999
Palygorskite fibers (> 5µm in length)	12174-11-7	December 28, 1999
Panfuran S	794-93-4	January 1, 1988
Pentachlorophenol	87-86-5	January 1, 1990
Phenacetin	62-44-2	October 1, 1989
Phenazopyridine	94-78-0	January 1, 1988
Phenazopyridine hydrochloride	136-40-3	January 1, 1988
Phenesterin	3546-10-9	July 1, 1989
Phenobarbital	50-06-6	January 1, 1990
Phenolphthalein	77-09-8	May 15, 1998
Phenoxybenzamine	59-96-1	April 1, 1988
Phenoxybenzamine hydrochloride	63-92-3	April 1, 1988
o-Phenylenediamine and its salts	95-54-5	May 15, 1998
Phenyl glycidyl ether	122-60-1	October 1, 1990
Phenylhydrazine and its salts	—	July 1, 1992
o-Phenylphenate, sodium	132-27-4	January 1, 1990
o-Phenylphenol	90-43-7	August 4, 2000
PhiP(2-Amino-1-methyl-6-phenylimidazol[4,5-b]pyridine)	105650-23-5	October 1, 1994
Polybrominated biphenyls	—	January 1, 1988
Polychlorinated biphenyls	—	October 1, 1989
Polychlorinated biphenyls (containing 60 or more percent chlorine by molecular weight)	—	January 1, 1988
Polychlorinated dibenzo-p-dioxins	—	October 1, 1992
Polychlorinated dibenzofurans	—	October 1, 1992
Polygeenan	53973-98-1	January 1, 1988
Ponceau MX	3761-53-3	April 1, 1988
Ponceau 3R	3564-09-8	April 1, 1988
Potassium bromate	7758-01-2	January 1, 1990

<u>Chemical</u>	<u>CAS Number</u>	<u>Date</u>
Primidone	125-33-7	August 20, 1999
Procarbazine	671-16-9	January 1, 1988
Procarbazine hydrochloride	366-70-1	January 1, 1988
Procymidone	32809-16-8	October 1, 1994
Progesterone	57-83-0	January 1, 1988
Pronamide	23950-58-5	May 1, 1996
Propachlor	1918-16-7	February 27, 2001
1,3-Propane sultone	1120-71-4	January 1, 1988
Propargite	2312-35-8	October 1, 1994
beta-Propiolactone	57-57-8	January 1, 1988
Propoxur	114-26-1	August 11, 2006
Propylene glycol mono- <i>t</i> -butyl ether	57018-52-7	June 11, 2004
Propylene oxide	75-56-9	October 1, 1988
Propylthiouracil	51-52-5	January 1, 1988
Pyridine	110-86-1	May 17, 2002
Quinoline and its strong acid salts	—	October 24, 1997
Radionuclides	—	July 1, 1989
Reserpine	50-55-5	October 1, 1989
Residual (heavy) fuel oils	—	October 1, 1990
Riddelliine	23246-96-0	December 3, 2004
<u>Saccharin Delisted April 6, 2001</u>	81-07-2	October 1, 1989
<u>Saccharin, sodium Delisted January 17, 2003</u>	128-44-9	January 1, 1988
Safrole	94-59-7	January 1, 1988
Selenium sulfide	7446-34-6	October 1, 1989
Shale-oils	68308-34-9	April 1, 1990
Silica, crystalline (airborne particles of respirable size)	—	October 1, 1988
Soots, tars, and mineral oils (untreated and mildly treated oils and used engine oils)	—	February 27, 1987
Spironolactone	52-01-7	May 1, 1997
Stanozolol	10418-03-8	May 1, 1997
Sterigmatocystin	10048-13-2	April 1, 1988
Streptozotocin (streptozocin)	18883-66-4	January 1, 1988
Strong inorganic acid mists containing sulfuric acid	—	March 14, 2003
Styrene oxide	96-09-3	October 1, 1988
Sulfallate	95-06-7	January 1, 1988
<u>Sulfasalazine (Salicylazosulfapyridine)</u>	599-79-1	May 15, 1998
Talc containing asbestiform fibers	—	April 1, 1990
Tamoxifen and its salts	10540-29-1	September 1, 1996
Terrazole	2593-15-9	October 1, 1994
Testosterone and its esters	58-22-0	April 1, 1988
2,3,7,8-Tetrachlorodibenzo-para-dioxin (TCDD)	1746-01-6	January 1, 1988
1,1,2,2-Tetrachloroethane	79-34-5	July 1, 1990
Tetrachloroethylene (Perchloroethylene)	127-18-4	April 1, 1988
p-a,a,a-Tetrachlorotoluene	5216-25-1	January 1, 1990
Tetrafluoroethylene	116-14-3	May 1, 1997
Tetranitromethane	509-14-8	July 1, 1990
Thioacetamide	62-55-5	January 1, 1988
4,4'-Thiodianiline	139-65-1	April 1, 1988
Thiodicarb	59669-26-0	August 20, 1999
Thiouracil	141-90-2	June 11, 2004
Thiourea	62-56-6	January 1, 1988
Thorium dioxide	1314-20-1	February 27, 1987
Tobacco, oral use of smokeless products	—	April 1, 1988

<u>Chemical</u>	<u>CASNumber</u>	<u>Date</u>
Tobacco smoke	—	April 1, 1988
Toluene diisocyanate	26471-62-5	October 1, 1989
ortho-Toluidine	95-53-4	January 1, 1988
ortho-Toluidine hydrochloride	636-21-5	January 1, 1988
para-Toluidine <u>Delisted October 29, 1999</u>	106-49-0	January 1, 1990
Toxaphene (Polychlorinated camphenes)	8001-35-2	January 1, 1988
Treosulfan	299-75-2	February 27, 1987
Trichlormethine (Trimustine hydrochloride)	817-09-4	January 1, 1992
Trichloroethylene	79-01-6	April 1, 1988
2,4,6-Trichlorophenol	88-06-2	January 1, 1988
1,2,3-Trichloropropane	96-18-4	October 1, 1992
Trimethyl phosphate	512-56-1	May 1, 1996
2,4,5-Trimethylaniline and its strong acid salts	—	October 24, 1997
Triphenyltin hydroxide	76-87-9	July 1, 1992
Tris(aziridiny)l-para-benzoquinone (Triaziquone)	68-76-8	October 1, 1989
Tris(1-aziridiny)lphosphine sulfide (Thiotepa)	52-24-4	January 1, 1988
Tris(2-chloroethyl) phosphate	115-96-8	April 1, 1992
Tris(2,3-dibromopropyl)phosphate	126-72-7	January 1, 1988
Trp-P-1 (Tryptophan-P-1)	62450-06-0	April 1, 1988
Trp-P-2 (Tryptophan-P-2)	62450-07-1	April 1, 1988
Trypan blue (commercial grade)	72-57-1	October 1, 1989
Unleaded gasoline (wholly vaporized)	—	April 1, 1988
Uracil mustard	66-75-1	April 1, 1988
Urethane (Ethyl carbamate)	51-79-6	January 1, 1988
Vanadium pentoxide (orthorhombic crystalline form)	1314-62-1	February 11, 2005
Vinclozolin	50471-44-8	August 20, 1999
Vinyl bromide	593-60-2	October 1, 1988
Vinyl chloride	75-01-4	February 27, 1987
4-Vinylcyclohexene	100-40-3	May 1, 1996
4-Vinyl-1-cyclohexene diepoxide (Vinyl cyclohexene dioxide)	106-87-6	July 1, 1990
Vinyl fluoride	75-02-5	May 1, 1997
Vinyl trichloride (1,1,2-Trichloroethane)	79-00-5	October 1, 1990
2,6-Xylidine (2,6-Dimethylaniline)	87-62-7	January 1, 1991
Zileuton	111406-87-2	December 22, 2000
Zineb <u>Delisted October 29, 1999</u>	12122-67-7	January 1, 1990

CHEMICALS KNOWN TO THE STATE TO CAUSE REPRODUCTIVE TOXICITY

<u>Chemical</u>	<u>Type of Reproductive Toxicity</u>	<u>CASNo.</u>	<u>Date Listed</u>
Acetazolamide	developmental	59-66-5	August 20, 1999
Acetohydroxamic acid	developmental	546-88-3	April 1, 1990
Actinomycin D	developmental	50-76-0	October 1, 1992
All-trans retinoic acid	developmental	302-79-4	January 1, 1989
Alprazolam	developmental	28981-97-7	July 1, 1990
Altretamine	developmental, male	645-05-6	August 20, 1999
Amantadine hydrochloride	developmental	665-66-7	February 27, 2001
Amikacin sulfate	developmental	39831-55-5	July 1, 1990
Aminoglutethimide	developmental	125-84-8	July 1, 1990
Aminoglycosides	developmental	—	October 1, 1992
Aminopterin	developmental, female	54-62-6	July 1, 1987
Amiodarone hydrochloride	developmental, female, male	19774-82-4	August 26, 1997

<u>Chemical</u>	<u>Type of Reproductive Toxicity</u>	<u>CAS No.</u>	<u>Date Listed</u>
Amitraz	developmental	33089-61-1	March 30, 1999
Amoxapine	developmental	14028-44-5	May 15, 1998
Anabolic steroids	female, male	—	April 1, 1990
Angiotensin converting enzyme (ACE) inhibitors	developmental	—	October 1, 1992
Anisindione	developmental	117-37-3	October 1, 1992
Arsenic (inorganic oxides)	developmental	—	May 1, 1997
Aspirin (NOTE: It is especially important not to use aspirin during the last three months of pregnancy, unless specifically directed to do so by a physician because it may cause problems in the unborn child or complications during delivery.)	developmental, female	50-78-2	July 1, 1990
Atenolol	developmental	29122-68-7	August 26, 1997
Auranofin	developmental	34031-32-8	January 29, 1999
Azathioprine	developmental	446-86-6	September 1, 1996
Barbiturates	developmental	—	October 1, 1992
Beclomethasone dipropionate	developmental	5534-09-8	May 15, 1998
Benomyl	developmental, male	17804-35-2	July 1, 1991
Benzene	developmental, male	71-43-2	December 26, 1997
Benzodiazepines	developmental	—	October 1, 1992
Benzphetamine hydrochloride	developmental	5411-22-3	April 1, 1990
Bischloroethyl nitrosourea (BCNU) (Carmustine)	developmental	154-93-8	July 1, 1990
Bromacil lithium salt	developmental male	53404-19-6	May 18, 1999 January 17, 2003
1-Bromopropane	developmental, female, male	106-94-5	December 7, 2004
2-Bromopropane	female, male	75-26-3	May 31, 2005
Bromoxynil	developmental	1689-84-5	October 1, 1990
Bromoxynil octanoate	developmental	1689-99-2	May 18, 1999
Butabarbital sodium	developmental	143-81-7	October 1, 1992
1,3-Butadiene	developmental, female, male	106-99-0	April 16, 2004
1,4-Butanediol dimethane-sulfonate (Busulfan)	developmental	55-98-1	January 1, 1989
Butyl benzyl phthalate (BBP)	developmental	85-68-7	December 2, 2005
Cadmium	developmental, male	—	May 1, 1997
Carbamazepine	developmental	298-46-4	January 29, 1999
Carbon disulfide	developmental, female, male	75-15-0	July 1, 1989
Carbon monoxide	developmental	630-08-0	July 1, 1989
Carboplatin	developmental	41575-94-4	July 1, 1990
Chenodiol	developmental	474-25-9	April 1, 1990
Chlorambucil	developmental	305-03-3	January 1, 1989
Chlorcyclizine hydrochloride	developmental	1620-21-9	July 1, 1987
Chlordecone (Kepone)	developmental	143-50-0	January 1, 1989
Chlordiazepoxide	developmental	58-25-3	January 1, 1992
Chlordiazepoxide hydrochloride	developmental	438-41-5	January 1, 1992
1-(2-Chloroethyl)-3-cyclohexyl-1- nitrosourea (CCNU) (Lomustine)	developmental	13010-47-4	July 1, 1990
Chlorsulfuron	developmental, female, male	64902-72-3	May 14, 1999
Cidofovir	developmental, female, male	113852-37-2	January 29, 1999

<u>Chemical</u>	<u>Type of Reproductive Toxicity</u>	<u>CAS No.</u>	<u>Date Listed</u>
Cladribine	developmental	4291-63-8	September 1, 1996
Clarithromycin	developmental	81103-11-9	May 1, 1997
Clobetasol propionate	developmental, female	25122-46-7	May 15, 1998
Clomiphene citrate	developmental	50-41-9	April 1, 1990
Clorazepate dipotassium	developmental	57109-90-7	October 1, 1992
Cocaine	developmental, female	50-36-2	July 1, 1989
Codeine phosphate	developmental	52-28-8	May 15, 1998
Colchicine	developmental, male	64-86-8	October 1, 1992
Conjugated estrogens	developmental	—	April 1, 1990
Cyanazine	developmental	21725-46-2	April 1, 1990
Cycloate	developmental	1134-23-2	March 19, 1999
Cyclohexanol	male	108-93-0	November 6, 1998
<u>Delisted January 25, 2002</u>			
Cycloheximide	developmental	66-81-9	January 1, 1989
Cyclophosphamide (anhydrous)	developmental, female, male	50-18-0	January 1, 1989
Cyclophosphamide (hydrated)	developmental, female, male	6055-19-2	January 1, 1989
Cyhexatin	developmental	13121-70-5	January 1, 1989
Cytarabine	developmental	147-94-4	January 1, 1989
Dacarbazine	developmental	4342-03-4	January 29, 1989
Danazol	developmental	17230-88-5	April 1, 1990
Daunorubicin hydrochloride	developmental	23541-50-6	July 1, 1990
2,4-D butyric acid	developmental, male	94-82-6	June 18, 1999
o,p' -DDT	developmental, female, male	789-02-6	May 15, 1998
p,p' -DDT	developmental, female, male	50-29-3	May 15, 1998
2,4 DP (dichloroprop)	developmental	120-36-5	April 27, 1999
<u>Delisted January 25, 2002</u>			
Demeclocycline hydrochloride (internal use)	developmental	64-73-3	January 1, 1992
Diazepam	developmental	439-14-5	January 1, 1992
Diazoxide	developmental	364-98-7	February 27, 2001
1,2-Dibromo-3-chloropropane (DBCP)	male	96-12-8	February 27, 1987
Di-n-butyl phthalate (DBP)	developmental, female, male	84-74-2	December 2, 2005
Dichlorophene	developmental	97-23-4	April 27, 1999
Dichlorophenamide	developmental	120-97-8	February 27, 2001
Diclofop methyl	developmental	51338-27-3	March 5, 1999
Dicumarol	developmental	66-76-2	October 1, 1992
Di(2-ethylhexyl)phthalate (DEHP)	developmental, male	117-81-7	October 24, 2003
Diethylstilbestrol (DES)	developmental	56-53-1	July 1, 1987
Diflunisal	developmental, female	22494-42-4	January 29, 1999
Di-n-hexyl phthalate (DnHP)	female, male	84-75-3	December 2, 2005
Dihydroergotamine mesylate	developmental	6190-39-2	May 1, 1997
Diltiazem hydrochloride	developmental	33286-22-5	February 27, 2001
m-Dinitrobenzene	male	99-65-0	July 1, 1990
o-Dinitrobenzene	male	528-29-0	July 1, 1990
p-Dinitrobenzene	male	100-25-4	July 1, 1990
2,4-Dinitrotoluene	male	121-14-2	August 20, 1999
2,6-Dinitrotoluene	male	606-20-2	August 20, 1999
Dinitrotoluene (technical grade)	female, male	—	August 20, 1999
Dinocap	developmental	39300-45-3	April 1, 1990
Dinoseb	developmental, male	88-85-7	January 1, 1989

<u>Chemical</u>	<u>Type of Reproductive Toxicity</u>	<u>CAS No.</u>	<u>Date Listed</u>
Diphenylhydantoin (Phenytoin)	developmental	57-41-0	July 1, 1987
Disodium cyanodithioimidocarbonate	developmental	138-93-2	March 30, 1999
Doxorubicin hydrochloride (Adriamycin)	developmental, male	23214-92-8	January 29, 1999
Doxycycline (internal use)	developmental	564-25-0	July 1, 1990
Doxycycline calcium (internal use)	developmental	94088-85-4	January 1, 1992
Doxycycline hyclate (internal use)	developmental	24390-14-5	October 1, 1991
Doxycycline monohydrate (internal use)	developmental	17086-28-1	October 1, 1991
Endrin	developmental	72-20-8	May 15, 1998
Environmental tobacco smoke (ETS)	developmental	—	June 9, 2006
Epichlorohydrin	male	106-89-8	September 1, 1996
Ergotamine tartrate	developmental	379-79-3	April 1, 1990
Estropipate	developmental	7280-37-7	August 26, 1997
Ethionamide	developmental	536-33-4	August 26, 1997
Ethyl alcohol in alcoholic beverages	developmental	—	October 1, 1987
Ethyl dipropylthiocarbamate	developmental	759-94-4	April 27, 1999
Ethylene dibromide	developmental, male	106-93-4	May 15, 1998
Ethylene glycol monoethyl ether	developmental, male	110-80-5	January 1, 1989
Ethylene glycol monomethyl ether	developmental, male	109-86-4	January 1, 1989
Ethylene glycol monoethyl ether acetate	developmental, male	111-15-9	January 1, 1993
Ethylene glycol monomethyl ether acetate	developmental, male	110-49-6	January 1, 1993
Ethylene oxide	female	75-21-8	February 27, 1987
Ethylene thiourea	developmental	96-45-7	January 1, 1993
Etodolac	developmental, female	41340-25-4	August 20, 1999
Etoposide	developmental	33419-42-0	July 1, 1990
Etretinate	developmental	54350-48-0	July 1, 1987
Fenoxaprop ethyl	developmental	66441-23-4	March 26, 1999
Filgrastim	developmental	121181-53-1	February 27, 2001
Fluazifop butyl	developmental	69806-50-4	November 6, 1998
Flunisolide	developmental, female	3385-03-3	May 15, 1998
Fluorouraci	developmental	51-21-8	January 1, 1989
Fluoxymesterone	developmental	76-43-7	April 1, 1998
Flurazepam hydrochloride	developmental	1172-18-5	October 1, 1992
Flurbiprofen	developmental, female	5104-49-4	August 20, 1999
Flutamide	developmental	13311-84-7	July 1, 1990
Fluticasone propionate	developmental	80474-14-2	May 15, 1998
Fluvalinate	developmental	69409-94-5	November 6, 1998
Ganciclovir sodium	developmental, male	82410-32-0	August 26, 1997
Gemfibrozil	female, male	25812-30-0	August 20, 1999
Goserelin acetate	developmental, female, male	65807-02-5	August 26, 1997
Halazepam	developmental	23092-17-3	July 1, 1990
Halobetasol propionate	developmental	66852-54-8	August 20, 1999
Haloperidol	developmental, female	52-86-8	January 29, 1999
Halothane	developmental	151-67-7	September 1, 1996
Heptachlor	developmental	76-44-8	August 20, 1999
Hexachlorobenzene	developmental	118-74-1	January 1, 1989
Hexamethyl-phosphoramide	male	680-31-9	October 1, 1994
Histrelin acetate	developmental	—	May 15, 1998
Hydramethylnon	developmental, male	67485-29-4	March 5, 1999
Hydroxyurea	developmental	127-07-1	May 1, 1997

<u>Chemical</u>	<u>Type of Reproductive Toxicity</u>	<u>CAS No.</u>	<u>Date Listed</u>
Idarubicin hydrochloride	developmental, male	57852-57-0	August 20, 1999
Ifosfamide	developmental	3778-73-2	July 1, 1990
Iodine-131	developmental	10043-66-0	January 1, 1989
Isotretinoin	developmental	4759-48-2	July 1, 1987
Lead	developmental, female, male	—	February 27, 1987
Leuprolide acetate	developmental, female, male	74381-53-6	August 26, 1997
Levodopa	developmental	59-92-7	January 29, 1999
Levonorgestrel implants	female	797-63-7	May 15, 1998
Linuron	developmental	330-55-2	March 19, 1999
Lithium carbonate	developmental	554-13-2	January 1, 1991
Lithium citrate	developmental	919-16-4	January 1, 1991
Lorazepam	developmental	846-49-1	July 1, 1990
Lovastatin	developmental	75330-75-5	October 1, 1992
Mebendazole	developmental	31431-39-7	August 20, 1999
Medroxyprogesterone acetate	developmental	71-58-9	April 1, 1990
Megestrol acetate	developmental	595-33-5	January 1, 1991
Melphalan	developmental	148-82-3	July 1, 1990
Menotropins	developmental	9002-68-0	April 1, 1990
Meprobamate	developmental	57-53-4	January 1, 1992
Mercaptopurine	developmental	6112-76-1	July 1, 1990
Mercury and mercury compounds	developmental	—	July 1, 1990
Methacycline hydrochloride	developmental	3963-95-9	January 1, 1991
Metham sodium	developmental	137-42-8	May 15, 1998
Methazole	developmental	20354-26-1	December 1, 1999
Methimazole	developmental	60-56-0	July 1, 1990
Methotrexate	developmental	59-05-2	January 1, 1989
Methotrexate sodium	developmental	15475-56-6	April 1, 1990
Methyl bromide as a structural fumigant	developmental	74-83-9	January 1, 1993
Methyl chloride	developmental	74-87-3	March 10, 2000
Methyl mercury	developmental	—	July 1, 1987
N-Methylpyrrolidone	developmental	872-50-4	June 15, 2001
Methyltestosterone	developmental	58-18-4	April 1, 1990
Metiram	developmental	9006-42-2	March 30, 1999
Midazolam hydrochloride	developmental	59467-96-8	July 1, 1990
Minocycline hydrochloride (internal use)	developmental	13614-98-7	January 1, 1992
Misoprostol	developmental	59122-46-2	April 1, 1990
Mitoxantrone hydrochloride	developmental	70476-82-3	July 1, 1990
Myclobutanil	developmental, male	88671-89-0	April 16, 1999
Nabam	developmental	142-59-6	March 30, 1999
Nafarelin acetate	developmental	86220-42-0	April 1, 1990
Neomycin sulfate (internal use)	developmental	1405-10-3	October 1, 1992
Netilmicin sulfate	developmental	56391-57-2	July 1, 1990
Nickel carbonyl	developmental	13463-39-3	September 1, 1996
Nicotine	developmental	54-11-5	April 1, 1990
Nifedipine	developmental, female, male	21829-25-4	January 29, 1999
Nimodipine	developmental	66085-59-4	April 24, 2001
Nitrapyrin	developmental	1929-82-4	March 30, 1999
Nitrofurantoin	male	67-20-9	April 1, 1991
Nitrogen mustard (Mechlorethamine)	developmental	51-75-2	January 1, 1989

<u>Chemical</u>	<u>Type of Reproductive Toxicity</u>	<u>CAS No.</u>	<u>Date Listed</u>
Nitrogen mustard hydrochloride (Mecholethamine hydrochloride)	developmental	55-86-7	July 1, 1990
Norethisterone (Norethindrone)	developmental	68-22-4	April 1, 1990
Norethisterone acetate (Norethindrone acetate)	developmental	51-98-9	October 1, 1991
Norethisterone (Norethindrone) /Ethinyl estradiol	developmental	68-22-4/ 57-63-6	April 1, 1990
Norethisterone (Norethindrone)/Mestranol	developmental	68-22-4/ 72-33-3	April 1, 1990
Norgestrel	developmental	6533-00-2	April 1, 1990
Oxadiazon	developmental	19666-30-9	May 15, 1998
Oxazepam	developmental	604-75-1	October 1, 1992
Oxydemeton methyl	female, male	301-12-2	November 6, 1998
Oxymetholone	developmental	434-07-1	May 1, 1997
Oxytetracycline (internal use)	developmental	79-57-2	January 1, 1991
Oxytetracycline hydrochloride (internal use)	developmental	2058-46-0	October 1, 1991
<u>Oxythioquinox (Chinomethionat)</u>	<u>developmental</u>	<u>2439-01-2</u>	<u>November 6, 1998</u>
Paclitaxel	developmental, female, male	33069-62-4	August 26, 1997
Paramethadione	developmental	115-67-3	July 1, 1990
Penicillamine	developmental	52-67-5	January 1, 1991
Pentobarbital sodium	developmental	57-33-0	July 1, 1990
Pentostatin	developmental	53910-25-1	September 1, 1996
Phenacetamide	developmental	63-98-9	July 1, 1990
Phenprocoumon	developmental	435-97-2	October 1, 1992
Pimozide	developmental, female	2062-78-4	August 20, 1999
Pipobroman	developmental	54-91-1	July 1, 1990
Plicamycin	developmental	18378-89-7	April 1, 1990
Polybrominated biphenyls	developmental	—	October 1, 1994
Polychlorinated biphenyls	developmental	—	January 1, 1991
Potassium dimethyldithiocarbamate	developmental	128-03-0	March 30 1999
Pravastatin sodium	developmental	81131-70-6	March 3, 2000
Prednisolone sodium phosphate	developmental	125-02-0	August 20, 1999
Procarbazine hydrochloride	developmental	366-70-1	July 1, 1990
Propargite	developmental	2312-35-8	June 15, 1999
Propylthiouracil	developmental	51-52-5	July 1, 1990
Pyrimethamine	developmental	58-14-0	January 29, 1999
Quazepam	developmental	36735-22-5	August 26, 1997
Quizalofop-ethyl	male	76578-14-8	December 24, 1999
Resmethrin	developmental	10453-86-8	November 6, 1998
Retinol/retinyl esters, when in daily dosages in excess of 10,000 IU, or 3,000 retinol equivalents. (NOTE: Retinol/retinyl esters are required and essential for maintenance of normal reproductive function. The recommended daily level during pregnancy is 8,000 IU.)	developmental	—	July 1, 1989

<u>Chemical</u>	<u>Type of Reproductive Toxicity</u>	<u>CAS No.</u>	<u>Date Listed</u>
Ribavirin	developmental, male	36791-04-5	April 1, 1990
		36791-04-5	February 27, 2001
Rifampin	developmental, female	13292-46-1	February 27, 2001
Secobarbital sodium	developmental	309-43-3	October 1, 1992
Sermorelin acetate	developmental	—	August 20, 1999
Sodium dimethyldithiocarbamate	developmental	128-04-1	March 30, 1999
Sodium fluoroacetate	male	62-74-8	November 6, 1998
Streptomycin sulfate	developmental	3810-74-0	January 1, 1991
Streptozocin (streptozotocin)	developmental, female, male	18883-66-4	August 20, 1999
Sulfasalazine (<u>Salicylazosulfapyridine</u>)	male	599-79-1	January 29, 1999
Sulindac	developmental, female	38194-50-2	January 29, 1999
Tamoxifen citrate	developmental	54965-24-1	July 1, 1990
Temazepam	developmental	846-50-4	April 1, 1990
Teniposide	developmental	29767-20-2	September 1, 1996
Terbacil	developmental	5902-51-2	May 18, 1999
Testosterone cypionate	developmental	58-20-8	October 1, 1991
Testosterone enanthate	developmental	315-37-7	April 1, 1990
2,3,7,8-Tetrachlorodibenzo-para-dioxin (TCDD)	developmental	1746-01-6	April 1, 1991
Tetracycline (internal use)	developmental	60-54-8	October 1, 1991
Tetracyclines (internal use)	developmental	—	October 1, 1992
Tetracycline hydrochloride (internal use)	developmental	64-75-5	January 1, 1991
Thalidomide	developmental	50-35-1	July 1, 1987
Thioguanine	developmental	154-42-7	July 1, 1990
Thiophanate methyl	female, male	23564-05-8	May 18, 1999
Tobacco smoke (primary)	developmental, female, male	—	April 1, 1988
Tobramycin sulfate	developmental	49842-07-1	July 1, 1990
Toluene	developmental	108-88-3	January 1, 1991
Triadimefon	developmental, female, male	43121-43-3	March 30, 1999
Triazolam	developmental	28911-01-5	April 1, 1990
Tributyltin methacrylate	developmental	2155-70-6	December 1, 1999
Trientine hydrochloride	developmental	38260-01-4	February 27, 2001
Triforine	developmental	26644-46-2	June 18, 1999
Trilostane	developmental	13647-35-3	April 1, 1990
Trimethadione	developmental	127-48-0	January 1, 1991
Trimetrexate glucuronate	developmental	82952-64-5	August 26, 1997
Triphenyltin hydroxide	developmental	76-87-9	March 18, 2002
Uracil mustard	developmental, female, male	66-75-1	January 1, 199
Urethane	developmental	51-79-6	October 1, 1994
Urofollitropin	developmental	97048-13-0	April 1, 1990
Valproate (Valproic acid)	developmental	99-66-1	July 1, 1987
Vinblastine sulfate	developmental	143-67-9	July 1, 1990
Vinclozolin	developmental	50471-44-8	May 15, 1998
Vincristine sulfate	developmental	2068-78-2	July 1, 1990
Warfarin	developmental	81-81-2	July 1, 1987
Zileuton	developmental, female	111406-87-2	December 22, 2000

Date: September 29, 2006

OFFICE OF ENVIRONMENTAL
HEALTH HAZARD ASSESSMENT

SAFE DRINKING WATER AND TOXIC
ENFORCEMENT ACT OF 1986
(Proposition 65)

NOTICE TO INTERESTED PARTIES
September 29, 2006

CORRECTION TO THE LISTING OF THE
CHEMICALS CHINOMETHIONAT (OXYTHIO-
QUINOX) AND SALICYLAZOSULFAPYRIDINE

The Office of Environmental Health Hazard Assessment (OEHHA) of the California Environmental Protection Agency is making a correction to the listing of the chemicals *chinomethionat* (*oxythioquinox*) (CAS No. 2439-01-2) and *salicylazosulfapyridine* (CAS No. 599-79-1).

Chinomethionat (*Oxythioquinox*) was listed as a chemical known to cause developmental on November 6, 1998. It was also listed as known to cause cancer under the name of *oxythioquinox* on August 20, 1999. Because it is the same chemical with the same CAS number, for clarity and consistency, the chemical name will be listed as *oxythioquinox* (*chinomethionat*) for the endpoints of cancer and developmental toxicity. The effective dates of the listing of the chemical under the two endpoints remains, respectively the same.

Salicylazopyridine (CAS No. 599-79-1) was listed as a chemical known to cause cancer on May 15, 1998. It was also listed as known to cause male reproductive toxicity under the name of *sulfasalazine* on January 29, 1999. Again, since it is the same chemical with the same CAS number, for clarity and consistency, the chemical will be listed as *sulfasalazine* (*salicylazopyridine*) for the endpoints of cancer and male reproductive toxicity. The effective dates of the listing of the chemical under the two endpoints remains, respectively the same.

A complete, updated Proposition 65 list is published elsewhere in this issue of the *California Regulatory Notice Register*. For clarity and conformity with the standards of the Chemical Abstract Service (CAS) Registry of the American Chemical Society, the CAS numbers of the chemicals are now shown with hyphens.

Cancer

Chemical	CAS No.	Toxicological Endpoint	Date of Listing
Oxythioquinox (Chinomethionat)	2439-01-2	cancer	August 20, 1999
Sulfasalazine (salicylazo-sulfapyridine)	599-79-1	cancer	May 15, 1998

Reproductive toxicity

Chemical	CAS No.	Toxicological Endpoint	Date of Listing
Oxythioquinox (Chinomethionat)	2439-01-2	developmental	November 6, 1998
Sulfasalazine (salicylazo-sulfapyridine)	599-79-1	male	January 29, 1999

SUMMARY OF REGULATORY
ACTIONS

REGULATIONS FILED WITH
SECRETARY OF STATE

This Summary of Regulatory Actions lists regulations filed with the Secretary of State on the dates indicated. Copies of the regulations may be obtained by contacting the agency or from the Secretary of State, Archives, 1020 O Street, Sacramento, CA, 95814, (916) 653-7715. Please have the agency name and the date filed (see below) when making a request.

BOARD OF EQUALIZATION

Interstate and Foreign Commerce

Non-substantive amendments are proposed pursuant to 1 CCR 100 to make use tax presumptive period effective dates in 18 CCR 1620 consistent with changes in Revenue and Taxation Code sec. 6248. Under current law, the out-of-state purchases of a vehicle, vessel, or aircraft may be subject to California use tax if brought into the state within 12 months from the date of purchase. The 12-month period would have expired on June 30, 2006. AB 1809 (2006) extended the 12-month period to June 30, 2007 and, effective July 1, 2007, re-

duces the time period to 90 days. This action changes the corresponding dates in subdivisions (b)(4) and (5) and adds Revenue and Taxation Code sec. 6248 as a reference citation to 18 CCR 1620.

Title 18
California Code of Regulations
AMEND: 1620
Filed 09/15/06
Agency Contact: Diane G. Olsen (916) 322-9569

BOARD OF FORESTRY AND FIRE PROTECTION
Watershed with T or I values Extension, 2006

This rulemaking extends the sunset date for provisions of the California Forest Practice Rules related to the protection of threatened or impaired watersheds (T/I) to December 31, 2007. Without amendment, the regulations will expire December 31, 2006. BFFP has requested the extension to review literature regarding the impact of the T/I regulations, as well as continue protection of anadromous salmonids.

Title 14
California Code of Regulations
AMEND: 895.1, 898, 914.8, [934.8, 954.8], 916, [936, 956], 916.2 [936.2, 956.2], 916.9, [936.9, 956.9], 916.11, [936.11, 956.11], 916.12, [936.12, 956.12], 923.3, [943.3, 963.3], 923.9, [943.9, 963.9]
Filed 09/20/06
Effective 10/20/06
Agency Contact:
Christopher Zimny (916) 653-9418

DEPARTMENT OF FOOD AND AGRICULTURE
Diaprepes Root Weevil Interior Quarantine

This emergency regulatory action establishes four new quarantine areas — two in Orange County and two in San Diego County.

Title 3
California Code of Regulations
AMEND: 3433(b)
Filed 09/19/06
Effective 09/19/06
Agency Contact: Stephen Brown (916) 654-1017

DEPARTMENT OF INSURANCE
Workers' Compensation Pure Premium Rates

This filing will result in the publication of history notes describing amendments to regulations related to the Uniform Statistical Reporting Plan. These were last filed June 19, 2006 with a January 1, 2006 effective date. This filing was received August 10 with an effective date of July 1, 2006. These amendments are exempt from the APA.

Title 10
California Code of Regulations
AMEND: 2318.6, 2353.1
Filed 09/20/06
Effective 09/20/06
Agency Contact:
Christopher A. Citko (916) 492-3187

DEPARTMENT OF MOTOR VEHICLES
Employer Testing Program

This regulatory action amends existing regulations to ensure that all third-party examiners who conduct driving tests within the Employer Testing Program (ETP) maintain sufficient driver evaluation skills to conduct the drive/performance test for Class A and Class B commercial drivers license (CDL). Pursuant to Vehicle Code §15250.6, this action also provides for limited participation in the ETP for firefighting organizations such that they can issue a restricted CDL which is valid only for operating firefighting equipment.

Title 13
California Code of Regulations
AMEND: 25.06, 25.07, 25.08, 25.10, 25.14, 25.15, 25.16, 25.17, 25.18, 25.19, 25.20, 25.21, 25.22
Filed 09/14/06
Effective 10/14/06
Agency Contact: Christie Patrick (916) 657-5567

FISH AND GAME COMMISSION
Waterfowl Hunting

This regulatory action revises the migratory waterfowl hunting regulations for the upcoming season.

Title 14
California Code of Regulations
AMEND: 502
Filed 09/19/06
Effective 09/19/06
Agency Contact: Sherrie Koell (916) 653-4899

OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD
CSO

This regulatory action is to make the state's standards regarding hexavalent chromium at least as effective as federal standards. It establishes an 8 hour time-weighted average Permissible Exposure Limit (PEL) and creates three separate standards covering occupational exposures to Chromium (VI). It also contains ancillary provisions for exposure, determination, methods of compliance, respiratory protection, protective work clothing and equipment, hygiene areas and practices, medical surveillance, communication of hazards to employees, recordkeeping and compliance dates.

Title 8
California Code of Regulations

ADOPT: 1532.2, 5206, 8359 AMEND: 5155
Filed 09/19/06
Effective 09/19/06
Agency Contact: Marley Hart (916) 274-5721

OFFICE OF REAL ESTATE APPRAISERS**Implementation Method for New Licensing Criteria**

Modifies the time schedule by which applicants for a real estate appraiser license must demonstrate completion of education, experience, and examination requirements.

Title 10
California Code of Regulations
AMEND: 3528
Filed 09/14/06
Effective 10/04/06
Agency Contact:
Anthony F. Majewski (916) 440-7878

**OFFICE OF SPILL PREVENTION AND RESPONSE
Tank Vessel Escort Program**

Existing regulations require periodic re-testing of the bollard pull (braking force) of tugs used to escort tank vessels, which assist in the event of a propulsion or steering failure. This regulatory action (1) clarifies that the braking force shall be re-measured after any modifications or repairs that could affect the bollard pull and (2) provides an Escort Tug Inspection Program as an option in the San Francisco Bay Region and Los Angeles/Long Beach Harbor.

Title 14
California Code of Regulations
AMEND: 851.8, 851.23, 851.51.1, 851.85, 852.3, 851.4, 851.10, 851.10.1
Filed 09/15/06
Effective 10/15/06
Agency Contact:
Joy D. Lavin-Jones (916) 327-0910

PUBLIC UTILITIES COMMISSION**Amendments to Rules of Practice and Procedure**

This regulatory action updates and reorganizes the California Public Utilities Commission's entire "Chapter 1, Rules of Practice and Procedure". This action is subject to a limited review by the Office of Administrative Law pursuant to the provisions of Government Code section 11351 and Public Utilities Code section 311(h).

Title 20
California Code of Regulations
AMEND: 1, 1.1, 1.2, 1.3, 1.4, 1.5, 1.6, 1.7, 2, 2.1, 2.2, 2.3, 2.3.1, 2.4, 2.5, 2.6, 2.7, 3, 3.1, 3.2, 3.3, 3.4, 4, 5, 6, 6.1, 6.2, 6.3, 6.4, 6.5, 6.6, 7, 7.1, 8, 8.1, 8.2, 9,

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Filed 09/13/06
Effective 09/13/06
Agency Contact: Hallie Yacknin (415) 703-1675

STATE WATER RESOURCES CONTROL BOARD**San Francisco Bay Water Quality Control Plan**

The San Francisco Bay Regional Water Quality Control Board (Regional Board) adopted Resolution R2-2005-0046 (Basin Plan) on September 21, 2005, which amended the Water Quality Control Plan for the San Francisco Bay Region (Basin Plan) by establishing a program (a Total Maximum Daily Load (TMDL)) to control pathogens in the Tomales Bay watershed. The TMDL sets numeric targets, allocates responsibility among the sources for meeting those targets, and establishes an implementation plan to ensure that all segments of Tomales Bay and its major tributaries (Lagunitas Creek, Walker Creek, and Olema creek) attain applicable bacteriological water quality standards established in the Basin Plan to protect and support the beneficial uses.

Title 23
California Code of Regulations
ADOPT: 3916
Filed 09/13/06
Agency Contact: Joanna Jensen (916) 657-1036

SUPERINTENDENT OF PUBLIC INSTRUCTION**Utilization of the Regional Market Rate Ceiling**

This regulatory action repeals certain regulations enacted in 2004 but never enforced because of legislative suspension. The Legislature continued the suspension in 2005 and subsequently enacted Education Code section 8222 which supersedes and conflicts with these regulations. The regulations being repealed have never been in force or effect.

Title 5
California Code of Regulations
REPEAL: 18074.1(b), (c), (d), 18074.3, 18074.4,

18074.5, 18074.6
 Filed 09/15/06
 Effective 09/15/06
 Agency Contact: Debra Strain (916) 319-0860

**CCR CHANGES FILED
 WITH THE SECRETARY OF STATE
 WITHIN APRIL 19, 2006 TO
 SEPTEMBER 20, 2006**

All regulatory actions filed by OAL during this period are listed below by California Code of Regulations titles, then by date filed with the Secretary of State, with the Manual of Policies and Procedures changes adopted by the Department of Social Services listed last. For further information on a particular file, contact the person listed in the Summary of Regulatory Actions section of the Notice Register published on the first Friday more than nine days after the date filed.

Title 2

09/07/06 AMEND: 21904, 21905
 09/05/06 AMEND: 1859.2, 1859.76, 1859.83, 1859.163.1
 08/23/06 AMEND: 1181.4
 08/21/06 AMEND: 1859.2, 1859.70.1, 1859.71.3, 1859.78.5
 08/15/06 ADOPT: 20108, 20108.1, 20108.12, 20108.15, 20108.18, 20108.20, 20108.25, 20108.30, 20108.35, 20108.36, 20108.37, 20108.38, 20108.40, 20108.45, 20108.50, 20108.51, 20108.55, 20108.60, 20108.65, 20108.70, 20108.75, 20108.80
 08/11/06 AMEND: 1859.2, 1859.40, 1859.51, 1859.70, 1859.93.1, 1859.95, 1859.147, 1859.202, 1866
 07/24/06 AMEND: 18944
 07/06/06 AMEND: 575.1, 575.2
 06/20/06 AMEND: 18537
 06/08/06 AMEND: 18526
 05/26/06 ADOPT: 18438.5 AMEND: 18438.8
 05/25/06 AMEND: 18942
 05/24/06 ADOPT: Div. 8, Ch. 111, Sec. 59560
 05/24/06 AMEND: 433.1
 05/17/06 ADOPT: 22610.1, 22610.2, 22610.3, 22610.4
 05/15/06 AMEND: 1859.2, 1859.40, 1859.51, 1859.70, 1859.93.1, 1859.95, 1859.147, Form SAB 50-04
 05/08/06 AMEND: 18537.1
 04/24/06 AMEND: 20108.70, Division 7

Title 3

09/19/06 AMEND: 3433(b)
 09/12/06 AMEND: 3406(b)
 09/12/06 AMEND: 3591.12(a)
 09/08/06 AMEND: 3423(b)
 09/07/06 AMEND: 3433(b)
 09/05/06 AMEND: 3406(b)
 08/29/06 AMEND: 3433(b)
 08/24/06 AMEND: 3433(b)
 08/23/06 AMEND: 3591.12(a)
 08/17/06 AMEND: 3591.19(a)
 08/16/06 AMEND: 3433(b)
 08/15/06 AMEND: 3700(c)
 08/15/06 AMEND: 3700(c)
 08/10/06 AMEND: 3591.6(a)
 08/01/06 AMEND: 3591.6(a)
 08/01/06 AMEND: 3424(b)
 07/28/06 AMEND: 3591.2(a)
 07/26/06 AMEND: 3700(c)
 07/21/06 REPEAL: 1366
 07/19/06 ADOPT: 6310 AMEND: 6170
 07/18/06 ADOPT: 6960 AMEND: 6000
 07/17/06 AMEND: 3591.6(a)
 07/05/06 AMEND: 3591.6
 07/03/06 AMEND: 3589(a)
 06/28/06 AMEND: 3433(b)
 06/12/06 AMEND: 3433(b)
 05/23/06 ADOPT: 3424
 05/23/06 ADOPT: 6580, 6582, 6584
 05/19/06 AMEND: 3433(b)
 05/18/06 AMEND: 3591.12(a)
 05/18/06 ADOPT: 1472.7.2 AMEND: 1472, 1472.4
 05/11/06 AMEND: 3591.19
 04/28/06 AMEND: 1380.19, 1420.10
 04/27/06 AMEND: 3406(b)

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07/19/06 AMEND: 12358, 12359
 07/17/06 AMEND: 2240(e)
 06/20/06 AMEND: 1472
 06/01/06 AMEND: 8070(d), 8071(a)(9), 8072, 8073(c), 8074(b), 8076(c)(1)
 05/18/06 ADOPT: 12358
 05/05/06 AMEND: 150

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09/15/06 REPEAL: 18074.1(b), (c), (d), 18074.3, 18074.4, 18074.5, 18074.6
 08/30/06 ADOPT: 15566, 15567, 15568 REPEAL: 15569
 08/15/06 AMEND: 1030.7, 1030.8
 07/31/06 ADOPT: 1043.2, 1043.4, 1043.6, 1043.8, 1043.10, 1047, 1048 AMEND: 1040, 1041, 1043, 1044 REPEAL: 1042, 1045, 1046

07/27/06 ADOPT: 40500.1, 40511, 40512, 41020
AMEND 40100
07/25/06 ADOPT: 1207.1, 1207.2 AMEND:
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07/21/06 ADOPT: 15566, 15567, 15568, 15569
07/14/06 ADOPT: 51016.5, 55183
06/12/06 ADOPT: 19833.5, 19833.6 AMEND:
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05/12/06 AMEND: 19819, 19851
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09/19/06 ADOPT: 1532.2, 5206, 8359 AMEND:
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07/31/06 AMEND: 5154.1
07/28/06 AMEND: Subchapter 4, Appendix B,
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07/27/06 ADOPT: 3395
07/19/06 ADOPT: 10004, 10005 AMEND:
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07/18/06 AMEND: 3270
06/30/06 AMEND: 9793, 9795
06/26/06 ADOPT: 6858 AMEND: 6505, 6533,
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06/06/06 AMEND: 5155
05/25/06 AMEND: 4650
04/19/06 AMEND: 3395

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05/24/06 ADOPT: 3400
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04/19/06 AMEND: 10000, 10010, 10015, 10020,
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09/20/06 AMEND: 2318.6, 2353.1
09/14/06 AMEND: 3528
08/29/06 AMEND: 2699.6600
08/28/06 ADOPT: 803, 810, 810.1, 810.2, 810.3,
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07/28/06 AMEND: 2698.52(c), 2698.53(b),
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07/26/06 ADOPT: 5280, 5281, 5282, 5283, 5284,
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07/24/06 ADOPT: 2498.6
07/18/06 AMEND: 2498.5, 2498.6
07/14/06 AMEND: 2632.5, 2632.8, 2632.11
07/12/06 AMEND: 2697.6
07/12/06 AMEND: 2498.4.9
07/12/06 ADOPT: 2190.20, 2190.22, 2190.24
07/10/06 ADOPT: 2509.21
06/30/06 ADOPT: 2194.9, 2194.10, 2194.11,
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06/19/06 AMEND: 2318.6, 2353.1, 2354
06/05/06 AMEND: 3528
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05/25/06 ADOPT: 2188.23, 2188.24, 2188.83
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05/18/06 AMEND: 2498.6
04/28/06 ADOPT: 2670.1, 2670.2, 2670.3, 2670.4,
2670.5, 2670.7, 2670.8, 2670.9, 2670.10,
2670.11, 2670.12, 2670.13, 2670.14,
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04/20/06 AMEND: 2498.5

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08/16/06 ADOPT: 1084

07/27/06	AMEND: 1001, 1005, 1008, 1011, 1014, 1015, 1018, 1052, 1053, 1055, 1056, 1081 and Procedures D-1, D-2, D-10 E-1, F-1, and F-6	08/11/06	AMEND: 1261
07/12/06	AMEND: 999.2	08/11/06	AMEND: 7.50
06/28/06	ADOPT: 4400(II), 4400(mm), 4401.1, 4406 AMEND: 4440.3 REPEAL: 4400(I), 4406	08/04/06	ADOPT: 701, 702 AMEND: 1.74, 27.15, 27.67, 478.1, 551, 601, 708
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05/22/06	AMEND: 968.44, 968.46	07/28/06	ADOPT: 7.50(b)(178)
05/12/06	AMEND: 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910	07/19/06	ADOPT: 18459.1.2, Forms CIWMB 203, 204 AMEND: 18449, 18450, 18451, 18453.2, 18456, 18456.2.1, 18459, 18459.1, 18459.2.1, 18459.3, 18460.1, 18460.1.1, 18460.2, 18460.2.1, 18461, 18462, 18463, 18464, 18466, Penalty Tables 1, 11
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09/11/06	ADOPT: 2467.8, 2467.9 AMEND: 2467, 2467.1, 2467.2, 2467.3, 2467.4, 2467.5, 2467.6, 2467.7, Incorporated Documents REPEAL: 2467.8, Incorporated Test Method 512	07/11/06	AMEND: 15251
09/07/06	AMEND: 1956.1, 1956.8, 2023.1, 2023.4	06/30/06	AMEND: 360, 361, 362, 363, 364
08/24/06	AMEND: 28.22	06/30/06	AMEND: 11900
07/28/06	AMEND: 154.00	06/29/06	AMEND: 851.23
06/30/06	ADOPT: 85.00, 85.02, 85.04, 85.06, 85.08	06/23/06	AMEND: 1220
06/29/06	AMEND: 345.16	06/16/06	AMEND: 895, 895.1, 1038, 1038(f)
06/16/06	AMEND: 2023.4	06/08/06	AMEND: 746
06/15/06	AMEND: 1239	06/05/06	AMEND: 791.7, Form FG OSPR-1972
05/22/06	AMEND: 425.01	05/26/06	AMEND: 670.2
05/22/06	ADOPT: 86500, 86501	05/23/06	AMEND: 401
05/18/06	ADOPT: 550.20 AMEND: 551.11, 551.12	05/17/06	AMEND: 182
05/02/06	ADOPT: 345.07 AMEND: 345.06	05/11/06	AMEND: 27.80
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05/25/06 AMEND: 3040.1, 3341.5, 3375, 3375.3,
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05/16/06 AMEND: 3999.2

05/16/06 AMEND: 3999.1.10, 3999.1.8

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09/07/06 ADOPT: 1399.391

08/31/06 ADOPT: 1727.1

08/25/06 AMEND: 1922, 1936, 1948

08/17/06 ADOPT: 601.5, 642.5 AMEND: 600.1,
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08/04/06 AMEND: 1886.40

08/01/06 ADOPT: 1399.180, 1399.181, 1399.182,
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07/31/06 AMEND: 3394.4, 3394.6

07/12/06 ADOPT: 1034.1 AMEND: 1021, 1028,
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07/03/06 AMEND: 1399.152, 1399.156.4

06/26/06 ADOPT: 1304.5

06/14/06 AMEND: 2537, 2537.1

06/05/06 AMEND: 3303

06/05/06 AMEND: 2630, 2630.1

06/05/06 ADOPT: 2608

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05/31/06 ADOPT: 869.9 AMEND: 868, 869

05/30/06 AMEND: 3340.1, 3340.16, 3340.16.5,
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07/20/06 AMEND: 30100, 30253

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09/08/06 ADOPT: 1125, 1423 AMEND: 1123,
1420 AMEND: 1591

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2.7, 3, 3.1, 3.2, 3.3, 3.4, 4, 5, 6, 6.1, 6.2,
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07/07/06	AMEND: 7000	05/08/06	AMEND: 96010
Title 22		04/20/06	AMEND: 70577, 70717, 71203, 71517, 71545
08/31/06	AMEND: 1256.5-1	04/19/06	ADOPT: 4400(kk) REPEAL: 4414
08/28/06	ADOPT: 64449.2, 64449.4 AMEND: 64449	Title 22, MPP	
08/24/06	ADOPT: 66262.27, 66263.24, Appendix 11 to Chapter 14 AMEND: 66260.10, 66262.20, 66262.21, 66262.23, 66262.32, 66262.33, 66262.34, 66262.42, 66262.53, 66262.54, 66262.55, 66262.56, 66262.60, Appendix to chapter 12, 66263.18, 66263.20, 66263.21, 66263.32	08/11/06	ADOPT: 102416.2, 102416.3 AMEND: 102419, 102423
08/09/06	REPEAL: 4402.1, 4403, 4408, 4431	07/11/06	AMEND: 80019, 80019.1, 80054, 87219, 87219.1, 87454, 87819, 87819.1, 87854, 88019, 101170, 101170.1, 101195, 102370, 102370.1, 102395
08/03/06	AMEND: 12805	Title 23	
08/02/06	ADOPT: 64401.71, 64401.72, 64401.73, 64463, 64463.1, 64463.4, 64465, 64466 AMEND: 64426.1, 664432.1, 64451, 64453, 64481, 64482, 64483, 64666 REPEAL: 64463.2, 64464.1, 64464.3, 64464.6, 64465, 64466, 64467, 64467.5, 64468.1, 64468.2, 64468.3, 64468.4	09/13/06	ADOPT: 3916
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05/19/06	AMEND: 12805	08/04/06	ADOPT: 3929
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		07/21/06	ADOPT: 3949.1
		06/30/06	ADOPT: 3949
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		Title 25	
		05/15/06	AMEND: 6932
		04/24/06	AMEND: Adding a title to Ch. 7, Subchapter 21
		Title 27	
		06/13/06	AMEND: 15241, 15242
		Title 28	
		09/11/06	ADOPT: 1002.4
		06/26/06	ADOPT: 1300.67.24 REPEAL: 1300.67.24
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		09/07/06	AMEND: 11-501, 42-302, 42-701, 42-711, 42-712, 42-713, 42-715, 42-716, 42-718, 42-719, 42-720, 42-721, 42-722, 42-802, 42-1009, 42-1010, 44-111, 63-407 REPEAL: 42-710

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30-780(b), 30-780.1(b)(1)
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